

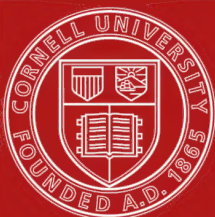
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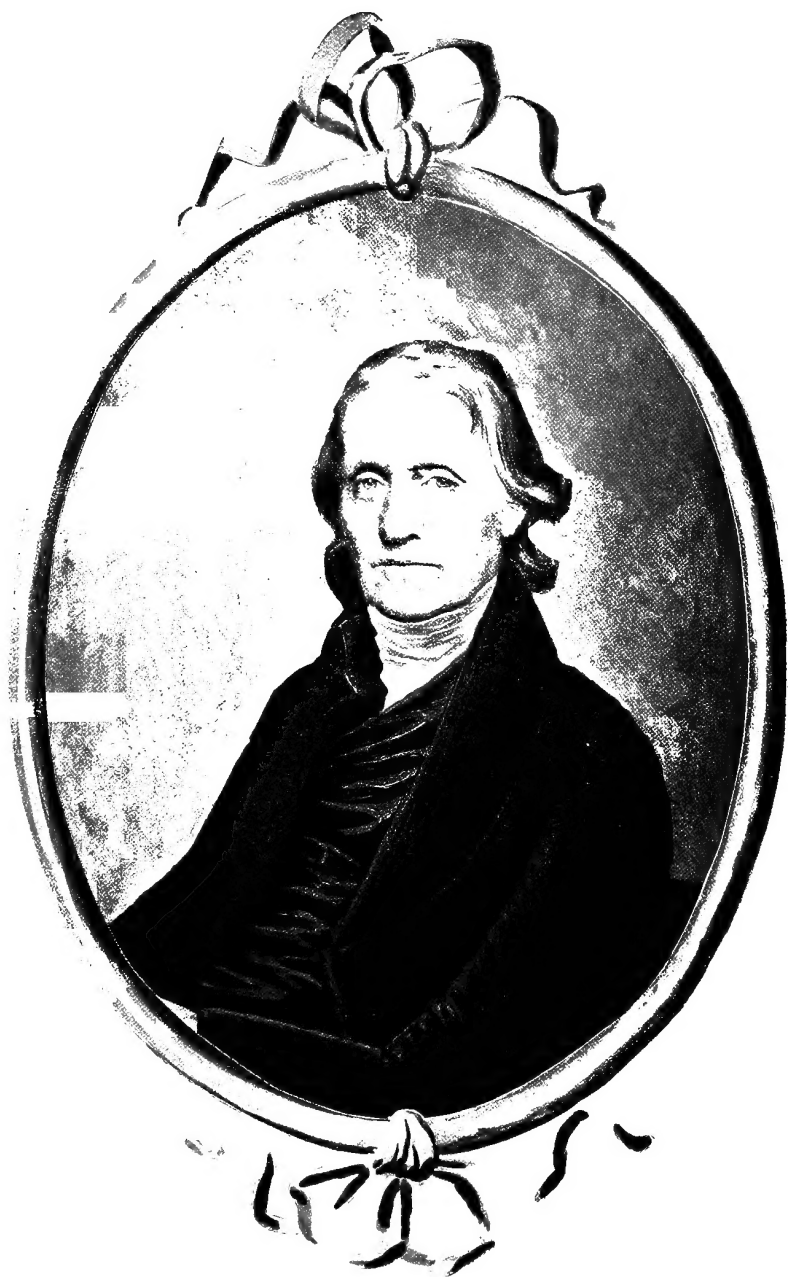
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JONATHAN GRIFFIN TOMPKINS.
Father of Daniel D. Tompkins.

Photographed from an oil painting in the possession of Mrs. Lydia P. Patchin, his great grand-niece.

PUBLIC PAPERS
OF
DANIEL D. TOMPKINS
GOVERNOR OF NEW YORK
1807—1817
MILITARY—VOL. II.

WITH AN INTRODUCTION BY
HUGH HASTINGS, STATE HISTORIAN.

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PREFACE TO VOLUME II.

The greater part of the contents of this volume consists of material relating to the defense of the city of New York, especially the construction and armament of the works on both the Long Island and Staten Island sides of the Narrows and on the islands in the upper bay. The value of the material is the more capable of appreciation when a comparison is established between the condition of the defences for the protection of the metropolis nearly one hundred years ago with those in existence to-day. The national government had not then attained the importance and influence which it began to exert after the termination of the second war with Great Britain, for the correspondence herewith published discloses the reliance and dependence which were placed upon the individual States in the development of the defences and for the protection of the frontier. In fact, evidence is abundant to prove that New York State had supplied the ordnance which had been mounted in the various works constructed in New York harbor.

Other subjects discussed are the Indian question, which was a serious problem for the State authorities; the New York and New Jersey boundary line dispute; the adjustment of the border line between Canada and New York. Governor Tompkins, in a lengthy communication, gravely argues the proposition to transfer West Point. He suggested to Secretary of War Eustis that the Narrows furnished "a most eligible site for a military academy," and intimated that the institution was designed "for educating officers

PREFACE TO VOLUME II.

of the navy as well as army." He dwelt at length upon the proposition of establishing a grand arsenal or deposit for military stores along the Hudson river. He disparaged the site of West Point because of its impracticability of communication when the stream was frozen over and because in case of invasion the population was "so sparse on that side of the river for six or seven miles around that no aid or assistance can be calculated upon from the inhabitants upon a sudden and unexpected emergency."

From the documents submitted an excellent idea is afforded of the preparations which New York made for the second conflict with Great Britain.

At the present moment interest is given to Thomas Jefferson's views of a third presidential term, in response to a set of concurrent resolutions which his Republican friends adopted in the New York State Legislature, in March, 1807, requesting him to consent to establish a precedent which Washington, a decade before, had repudiated.

HUGH HASTINGS,

State Historian.

STATE CAPITOL,

ALBANY, *December 2, 1903.*

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Military Papers of Governor
Daniel D. Tompkins.

Military Papers of Governor Daniel D. Tompkins.

JUDGE TOMPKINS PREFERS TO BE A JUDGE OF THE SUPREME COURT
OF NEW YORK RATHER THAN DISTRICT JUDGE OF THE UNITED
STATES.

New York, 27 March, 1805.

Sir: I have this day received your communication enclosing to me a commission as Judge of the district of New York. My preference for the office of Judge of the Supreme Court of this State, which arises from its tenure being the same, from its emoluments being more and from the greater tendency of its duties to preserve my health, induces me to decline accepting the office of District Judge.

Permit me, Sir, to avail myself of this opportunity, through you, to assure the President of the United States of my unfeigned gratitude for this distinguished mark of confidence with which he has been pleased to honor me.

I have the honor to be, Sir, with great respect,
The Honble. James Madison.

GOVERNOR TOMPKINS ASKS FOR INFORMATION REGARDING THE
ORDNANCE ACT, IN VIEW OF THE CHESAPEAKE-LEOPARD
OUTRAGE.

New York, July 22, 1807.

Sir: The necessity of completing with the utmost expedition, the contracts which you may have authorised to be made under

the "Act for procuring ordnance and ammunition," passed the 7th day of April 1806,* induces me to apply to you for the necessary information to enable me to proceed with what is unfinished. You will, therefore, particularly oblige me by advising me of the measures which have been taken under the above mentioned Act subsequent to your communication to the Legislature of the 26th day of March last.†

I am, Sir, with much respect,

Honble. Morgan Lewis, Esq'r.

*AN ACT for the procuring Ordnance and Ammunition. Passed April 7, 1806.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NEW YORK, represented in Senate and Assembly, That it shall and may be lawful for the person administering the government of this State, to cause to be purchased for, and on behalf of this State, such number of heavy brass ordnance as he shall judge most advantageous to the public service, together with travelling forges and furnaces, and such other necessary implements as he shall deem necessary; and that, for the purpose aforesaid, the sum of thirty thousand dollars be, and the same is hereby appropriated.

II. And be it further enacted, That it shall and may be lawful for the person administering the government of this State, to cause to be purchased for, and on behalf of this State, brass field guns mounted and equipped, of such calibres, and in such number, as shall in his opinion, be requisite for the several companies of artillery which are now or may be hereafter organized within this State, and that for this purpose the further sum of twenty thousand dollars be and the same is hereby appropriated.

III. And be it further enacted, That the sum of twelve thousand dollars be and the same is hereby appropriated for the purpose of purchasing for, and on behalf of this State, such quantities of powder and ball, and in such proportions, as the person administering the government of this State shall deem expedient, who is hereby requested to cause the same to be procured as soon as conveniently may be.

IV. And be it further enacted, That the treasurer of this State shall from time to time, on the warrant of the comptroller of this State, pay to the order of the person administering the government of this State, for the time being, out of any monies that are or may be in the treasury not otherwise appropriated, the sum or sums mentioned in such warrants, to be by him applied to the purposes in this act mentioned: Provided such sum or sums shall not exceed in amount the appropriations in this act hereinbefore made: And provided further, that the person administering the government of this State shall not purchase or contract to purchase any of the ordnance, field-guns, powder and ball above mentioned, to an extent beyond the appropriations in this act.

V. And be it further enacted, That it shall and may be lawful for the comptroller of this State, and he is hereby directed to borrow for and on account of this State, the whole or such part of the above mentioned sums of money as may, in the opinion of the person administering the government of this State, be deemed necessary to be applied to and for the purposes of this act.

VI. And be it further enacted, That the person administering the government of this State shall cause a particular report, in relation to the proceedings under this act, to be made to the legislature at their next session.

VII. And be it further enacted, That so much of the sixth section of this act, entitled "An act to organize the militia of this State," as authorizes the person administering the government of this State, to distribute gun-powder, shall be and is hereby extended to each of the regiments of artillery in this State.

†See Tompkins Papers, Vol. I, pp. 28-30; 152-155; 156-157.

THE GOVERNOR WRITES AN INTERESTING LETTER TO COLONEL
WILLIAMS REGARDING ELLIS ISLAND.

New York, July 25, 1807.

Sir: The land around the bastion of the Old Battery belongs to the corporation of New York together with the land on the Battery, which will be necessary to answer the purposes of Fortification.

The land at Potter's field* originally belonged to the corporation. They granted it to the State for the use of an Arsenal, but as it has not been applied to that use by the State, and as by an Act of the Legislature a lease which the Surveyor General had given of it was directed to be assigned to the Corporation and the rent which had been received in the meantime was ordered to be refunded to them, it is to be presumed the right of the State was relinquished and that the property revested in the Corporation. At any rate I think their title will be deemed adequate and that you will have nothing to apprehend from any interference with you by the agents of the State.

The resolution of the corporation of the 13th instant embraces the whole property belonging to them. It will, therefore, be necessary for you only to furnish them with the precise limits and boundaries of the land required to answer your objects and a conveyance will be forthwith executed therefor.

By the proceedings of the commissioners under whose superintendence the works on Ellis' or Oyster Island† were erected,

*Established as such in 1794. The present Washington Square.

†Passed March 18, 1808

V. And be it further enacted, That it shall be lawful for the person administering the government of this state, to enter into and upon the lands called Ellis or Oyster Island, and to lay out and survey the same; and having made such survey, to contract and agree with the owner or owners of the said island for the whole or so much of the same, and for any tenements thereon being, as the president of the United States shall judge requisite for fortifications, and to purchase the same in the

it appears that a committee of the board was appointed to negotiate for the purchase of a part of that Island. The committee, however, never reported. An agreement was made with Mr. Ellis and a deed drawn for the ground required, but the death of the proprietor prevented the execution of the deed. This fact I have recently learned from one of the board. I am

name and behalf of the people of this state; but if he cannot agree with the owner or owners thereof respectively, or in case the owner or owners thereof shall be under age, non compos mentis, or out of the state, then it shall be lawful for the person administering the government of this state, to apply to the chancellor of this state, who, upon such application, is hereby required to issue a writ or writs in nature of a writ ad quod damnum, to be directed to the sheriff of the city and county of New York, commanding him, that, by the oaths of twelve good and lawful men of his bailiwick, he shall inquire whether the person or persons owning any of the said lands and tenements, so to be applied to such fortifications, will suffer and sustain any and what damages by reason of taking the same for such purpose, and to return the same writ together with the finding of the said jury, to the court of chancery of this state without delay; and upon such writ being delivered to the sheriff he shall give at least fourteen days notice of the time of executing the same, by a publication in two of the public newspapers printed in the city of New York; and shall cause to come upon or within the premises, at the time appointed, twelve good and lawful men of his bailiwick, as aforesaid, to whom he shall administer an oath that they will diligently inquire concerning the matters and things in the said writ specified, and a true verdict give according to the best of their skill and judgment, without favor or partiality; and thereupon the said sheriff and inquest shall proceed to view all and every the said lands and tenements in such writ specified, and having considered the value of the same as shall be necessary to be vested in the people of this state for the purposes aforesaid, they shall cause the same to be described, and shall value and appraise the same and the damage which the owner or owners thereof shall sustain in consequence of being deprived thereof, and shall define and ascertain the amount of such value and damage; and the said sheriff and jury shall make an inquisition under their hands and seals, setting forth the matter above required, and the sheriff, shall forthwith return the same together with the said writ, to the said court of chancery, and thereupon the chancellor shall examine the same, and if the writ shall appear to have been duly executed, then he shall enter judgment that the people of this state (the person administering the government first causing to be paid into the said court the sum or sums of money assessed in said inquisition, over and besides the costs) shall be entitled to have and to hold all and every the said lands and tenements, together with the rights and appurtenances as in the said inquisition described, as fully and effectually as if the same had been granted by the owner or owners thereof; and if the return so made shall be defective, the chancellor shall specify the same and shall direct a new inquisition to be taken, to supply such defect or defects; and upon the title to the said lands and tenements being vested in the people of this state, as aforesaid, the person administering the government of this state is hereby required and empowered to convey and grant all the right, title and interest of this state to the United States, for the purposes in this act expressed: Provided, That the sum or sums so assessed, and the costs are paid to the order of the person administering the government of this state, by and on behalf of the United States.

VI. And be it further enacted, That all the provisions in the last preceding section contained, are hereby extended to such lands on Long and Staten Islands, and the Island of New-York, as may be required by the President of the United States, for the purpose of providing for the defence and safety of the city and port of New York.—Chapter LI, Laws of New York, 1808.

therefore inclined to believe that no title was ever obtained for any part of that Island, and that the works erected there are occupied merely by the permission of the owner whose ancestor assented to it and whose first permission has never been withdrawn by his descendants. I [It] will, therefore, be necessary for you to embrace, in any deed you may obtain, the whole Island. The land round the Island between high and low water mark was conveyed by the corporation to the State. The title of the latter to that ground you may rely upon having conveyed as soon as the necessary forms can be complied with.

The right of ceding the jurisdiction of lands necessary for fortifications to the extent of 200 acres as I am informed, was by an Act of the last Session of the Legislature delegated to a board of State Officers of whom the Governor is one. I will convene that board as soon as you will acquaint me with the limits and boundaries of the tracts of which the Jurisdiction is desired and have no doubt of their immediate compliance with your wishes in every particular.

I am willing to give my assent to the transfer of Mr. Lent's lease immediately; but the granting of the fee of that land to the United States must depend upon the Legislature of the State at their next Session. The renewal of the lease will depend upon the Surveyor General who is now in Town, and who with the assent of the Governor is, by an Act of 1803 authorized to lease certain property belonging to the State, under which act Mr. Lent's present lease was granted. I would advise an application to him with respect to the renewal of the lease and my approbation will not be wanting to any arrangement which he shall deem proper.

Permit me to assure you of my earnest desire to give every assistance in my power towards accomplishing the objects you have in view and to request that you will advise me of every subject in relation to which my exertions can be serviceable.

Col. [Jonathan] Williams.

GENERAL STEDDIFORD RECEIVES INSTRUCTIONS FROM THE GOVERNOR
REGARDING ORDNANCE.

July 21, 1807.

The Governor requests the Commissary of Military Stores to have the following articles and repairs forthwith furnished and made for the use of the Ordnance belonging to the State viz:

Cedar plugs for 40 Ladles for 32 pounders.

Do 30 Do 24 Do.

Caps and Covers for 60 Spunges for 32 Do.

Do 40 Do 24 Do.

100 large Powder horns with belts complete for the use of the Ordnance.

20 hand spikes longer and more substantial than the few already in the Arsenal.

The carriages and guns (32 and 24 pounders) to be painted and numbered so that the guns for the respective carriages may be immediately known; and the carriages to be screwed together. The Tompions to be culled out and placed in the calibres of the respective guns of every description and any deficiency to be supplied.

The Commissary will exert the utmost care to have the above repairs and articles well made of the best materials and carefully

and exactly fitted for the purposes designed, and upon the most economical and best terms that can be obtained.

The Commissary is also requested as speedily as possible to make out and report the *quantity* and condition of all the articles in the Arsenal and Ordnance yard at New York that every deficiency may be supplied for any sudden emergency.

General Steddiford.

THE COUNCIL OF APPOINTMENT MEETING DEFERRED.

Albany, July 26, 1807.

Sir: I am instructed by The Governor to inform you that in his opinion the public good does not require a meeting of the Members of the Council of Appointment on the day mentioned in your letter of the tenth of June last.

Your Obt. S't,

John C. Spencer, Priv. Secy. to The Governor.

The Honble. John Nicholas Esqr.

Geneva [of Ontario County].

(A copy with direction for each other member was also made out and forwarded—Thomas Thomas, of Westchester, James Burt, of Orange and Edward Savage of Washington County.)

THE GOVERNOR TO MORGAN LEWIS IN REGARD TO THE GUNS FOR THE
DEFENCE OF NEW YORK.

Albany, August 18, 1807.

Sir: Since the personal interview which we had in New York, I have taken measures to have the guns which have been cast at Georgetown proved and brought to New York, and had previ-

ously directed that the heavy Ordnance in New York be mounted and supplied with every requisite for actual service. To defray the expense of these measures it becomes necessary for me to draw a warrant on the Comptroller. When you reflect that there is a balance of nearly twenty thousand Dollars of the fund appropriated for ordnance and ammunition already drawn from the Treasury and in your hands unexpended, you will unite with me in opinion that that balance ought to be applied before additional drafts are made upon the Treasury. There would be a manifest impropriety in my drawing on you for the money in your hands and yet the situation of affairs requires that the whole sum unexpended should be applied to the object contemplated by the Legislature as soon as the same can be done with economy and advantage.

Under these circumstances I feel it a duty to request that you will previously to the first day of September now next pay the balance to the Treasurer that the same may be subject to my warrant.

The Honble. Morgan Lewis.

GOVERNOR TOMPKINS SUPPLIES INFORMATION REGARDING MILITARY
DUTY TO A COMMITTEE OF ONTARIO COUNTY GENTLEMEN.

New York, September 1, 1807.

Gentlemen: Your letter was not received by me until my return yesterday from Albany, which is the reason of your not having received an earlier answer.

Soon after the occurrence, which is likely to produce a war between the United States and Great Britain, the propriety of placing our frontier settlements in a state of defence suggested

itself to me. An enquiry into the authority with which the Executive of the State is vested for that purpose convinced me that there was no legal provision to justify me in the measures which I contemplated. The importance and expediency of placing arms and ammunition within the reach of that portion of our fellow citizens who would be first and most exposed in case of an invasion by our Canadian neighbours, determined me upon adopting the measure and trusting to the good sense and justice of the Legislature to sanction it. Accordingly as soon as some field pieces, which are daily expected, arrive from Washington, it is my intention to convey part of them together with as many muskets &ca. and as much ammunition as can be safely and conveniently spared from the Arsenals and Magazines to points where they may be more useful in case of actual hostilities. I shall be happy if the arrangements of the administration of the United States, with which I shall be acquainted in a few days, should supersede the necessity of the above mentioned proceedings on my part. But if they should not, and if I should be scrupulously particular in requiring unquestionable security for the return of the articles to be forwarded, I trust my personal responsibility and the imposition practised upon the State in the distribution of Arms in 1794 will be deemed a sufficient apology.

... Permit me here to remark, that the law imposes on every citizen liable to serve in the Militia the necessity of providing himself with a musket, knapsack, bayonet, &ca., and exempts military equipments from distress and execution. Those, therefore, who are able to supply themselves with the equipments required by law and omit so to do are censurable for the neglect of a most important and indispensable *duty*. "Every man who enjoys the protection of Society ought to be prepared and willing

to defend it," is the language of our constitution, and every free-man ought to feel a pride in having in his own possession the means of defending his rights and privileges when infringed from any quarter, and disdain a dependance upon the public arsenals for a supply in cases of emergency. The Legislature has calculated upon the performance of this important duty by the citizens of the State and has, therefore, been sparing in the appropriations for small arms. The consequence is that if other divisions are equally deficient with the one to which your observations relate, all the muskets belonging to the State, together with those possessed by individuals, will not supply more than one sixth of the Militia. Little reliance is, therefore, to be placed on the assistance of the State for anything but ammunition. It, therefore, behooves officers of the Militia and all other influential characters, to avail themselves of the present emergency to exert their influence and authority in persuading and requiring those of the Militia who can afford the expense, to equip themselves immediately according to law. I shall be happy, Gentlemen, in receiving information and advice as to the most economical and confidential manner of forwarding arms, &ca., and as to the most prudent and useful places in which to deposit them, and the persons to whose superintendence it will be most prudent to confide them.

The Honble. John Nicholas & others,

Committee of the County of Ontario.

GOVERNOR TOMPKINS DISCLOSES A DIFFERENCE OF OPINION BETWEEN
HIS PREDECESSOR AND HIMSELF.

New York, 2 Sept'r, 1807.

Sir: The directions given by my predecessor relative to the field pieces which you have been and are continuing to finish for the State of New York were predicated upon an Act of the Legislature of the State appropriating \$62,500 for the purpose of procuring ordnance and ammunition. Of this appropriation nearly \$20,000 are in the hands of Governor Lewis unexpended. Upon my application to Mr. Lewis for the return of the balance into the Treasury he declines so to do and insists upon retaining the money in his hands to indemnify him for personal responsibilities. The only responsibility he can be under is to you for what you completed during his administration. Even for that I can not conceive you regarded his engagements in any other light than as *Governor*, and did not look to him as an individual for pay; but to his successor in office for a warrant upon the Treasury for the sums from time to time becoming due to you, after his official functions ceased. Under this impression I had concluded to advance you the necessary sums of money to proceed with your operations. It becomes necessary for you to inform me, therefore, explicitly whether you look to the Executive of the State for your compensation or to Mr. Lewis. If to the former I am ready to perform my duty upon the subject; but if you look to Mr. Lewis I consider myself absolved from any responsibility in relation to your compensation. In case you rely upon my official draft upon the Treasury it will be necessary for you to forward me a release of the private and individual responsibility of my predecessor in office that I may be enabled to have the balance in his hands refunded to the State.

These observations you will not consider as retracting the authority I gave in my letter to Mr. McLean for you to draw on me for the pieces already completed, neither will you consider me as relinquishing the right of solely directing the measures you are hereafter to pursue with the materials in your possession.

Mr. Foxall.

THE GOVERNOR NOTIFIES A COMMITTEE FROM BUFFALO OF HIS
PREPARATIONS TO PROTECT THE FRONTIER.

Albany, 7 October, 1807.

Gentlemen: Pursuant to the determination which was intimated to you some time since, I have caused muskets, bayonets and cartridges to be put up in boxes and have directed five chests containing one hundred muskets and bayonets, and three boxes containing three thousand cartridges to be delivered to you or your order at the Arsenal in Albany. There being no public fund which I am authorized to apply to defray the expense of conveying the above articles to Buffalo, or similar articles to other places, it cannot be expected that in addition to the responsibility of permitting them to be removed from the Arsenal in time of peace I should incur the individual expense of transporting them. Gentlemen from the Northern frontier have taken small supplies at their own expense and have executed a bond for their safe return similar to the one which will be required in this instance. The bond is enclosed and must be executed by the committee before the property will be delivered from the Arsenal. Permit me to advise that, if you send for the above supply, by no means to distribute the

arms or ammunition until actual invasion renders it necessary, for if you do, it will be difficult, if not impossible to collect them again, and it is but candid to notify you that in case I sustain injury or the State a loss by imprudence or neglect on your part the security will be put in force against those who execute it.

N. B. I have concluded to supply Onondaga, Canandaigua, and Batavia with a proportion of arms and ammunition which will enable you to have speedy assistance before your stock is exhausted.

Messrs. Asa Ransom, T. S. Hopkins,

Fred. Miller and S. Mabee, Buffalo.

THE GOVERNOR FORWARDS AMMUNITION AND MUSKETS TO NIAGARA
COUNTY.

Gentlemen: Pursuant to the determination which was intimated to you sometime since I have caused muskets and ammunition to be put up in boxes and chests and have directed the Assistant Commissary of Military Stores to deliver from the Arsenal, in Albany, to you or your order eleven chests containing two hundred and twenty muskets, with bayonets and three boxes containing three thousand cartridges. There being no public fund which can be lawfully applied to defray the expense of conveying the above articles to Canandaigua, or the like articles to other places, it can not be expected that in addition to the responsibility of permitting them to be removed from the Arsenal in time of peace I should also incur the individual expense of transporting them. Gentlemen residing on the Northern frontier have already removed some at their own ex-

pense and have executed a bond for their return similar to the one which will be expected in this instance. The form of the bond is enclosed which must be executed by two or more of the committee before the property will be delivered.

John Nicholas, John Smith, Peter B. Porter, &ca., Esqrs.

THE GOVERNOR INFORMS MR. CURTISS THAT FAITH WILL BE KEPT
WITH THE ONONDAGA INDIANS—A QUESTION OF LEASING THEIR
LANDS.

Albany, 5 October, 1807.

Sir: Your second letter relative to your communication with the Onondaga Indians was handed to me on my arrival at this place and I feel no difficulty in giving explicit answers to the several questions in relation to which they desire some satisfaction. The peaceable and friendly disposition which they have always manifested towards the State ensures them every protection which is afforded to our citizens, and you are at liberty to assure them from me, that the same security and protection which will be afforded to our citizens will be extended to them, and that the faith of the State in all Engagements with them will be punctually and faithfully adhered to. The enquiry which is suggested about the loss of the Indian at Caneseraga, has, heretofore, been instituted and resulted in a want of circumstances or facts which would authorise the arrest of any person for having been accessory to or the cause of his Death; and you well know and can explain to them that by our laws, no person can be charged with or arrested for an offence without proof of circumstances sufficient to excite strong suspicion at least of the perpetration by him of the crime alleged. Judge Tayler

heretofore communicated to them the result of the enquiry which took place and to his letter I beg leave to refer you and them.

Under these circumstances it would be nugatory to institute a second enquiry, unless there can be suggested facts unknown at the time the former one was instituted warranting it.

I am unacquainted with the proceedings which may have taken place upon their request for liberty to lease some of their land to Mr. Webster, but I should suppose there would be no objection on the part of the Legislature to authorise such lease for ten years, provided no claim for improvements at the expiration of the Term. If they will, therefore, communicate to me in writing, the specific term of the lease and quantity of land which they propose to let to Mr. Webster, they may rely upon my communicating it to the Legislature and returning them an explicit answer on the subject. Their presence at Albany for the latter purpose will be wholly unnecessary, as I shall diligently communicate to the Legislature and attend to any proceedings which they shall by writing request.

Medad Curtiss, Esqr.*

PRESIDENT JEFFERSON TO GOVERNOR TOMPKINS—HIS TENTATIVE
REPUDIATION OF A THIRD TERM NOMINATION.

Washington, 10 December, 1807.

Sir: I received in March last an address from the legislature of the State of New York, to which public considerations rendered it advisable not to give an immediate answer—That legislature not being in session at this time, I take the liberty

*Subsequently Surrogate of Onondaga County.

of putting my answer under cover to you unsealed; and I ask the favour of you to communicate it to the legislature, either through the channel of the public papers, which would be more immediate, or by withholding it until they meet, as you shall think would be most acceptable to them—I pray you to accept my respectful salutations and assurances of high consideration and esteem.

Thomas Jefferson.

His Excellency Governor Tompkins.

TO THE LEGISLATURE OF NEW YORK,

I received in due season the address of the Legislature of New York, bearing date the 13th day of March last, in which, with their approbation of the general course of my administration, they were so good as to express their desire, that I would consent to be proposed again to the public voice, on the expiration of my present term of office.

Entertaining, as I do, for the legislature of New York, those sentiments of high respect which would have prompted an immediate answer, I was certain, nevertheless, they would approve a delay which had for its object to avoid a premature agitation of the public mind, on a subject so interesting as the election of a chief magistrate.

That I should lay down my charge at a proper period, is as much a duty as to have born it faithfully—If some termination to the service of the chief magistrate, be not fixed by the constitution, or supplied by practice, his office, nominally for years, will, in fact, become for life; and history shews how easily that degenerates into an inheritance.

Believing that a representative government, responsible at short periods of election, is that which produces the greatest sum of happiness of mankind, I feel it a duty to do no act which shall essentially impair that principle; and I should willingly be the person, who, disregarding the sound precedent set by an illustrious predecessor, should furnish the first example of prolongation beyond the second term of office.

Truth also requires me to add, that I am sensible of that decline which advancing years bring on; and feeling their physical, I ought not to doubt their mental effect—Happy, if I am the first to perceive and obey this admonition of nature, and to solicit a retreat from cares too great for the wearied faculties of age.

For the approbation which the legislature of New York has been pleased to express, of the principles and measures pursued in the management of their affairs, I am sincerely thankful; and should I be so fortunate as to carry into retirement the equal approbation and good will of my fellow citizens, generally, it will be the comfort of my future days, and will close a service of forty years with the only reward ever wished.

Th: Jefferson.

10th December 1807.

THE GOVERNOR'S FIRST ADDRESS TO THE LEGISLATURE.

Gentlemen of the Senate and Assembly,

You are convened to deliberate and decide upon the important concerns of this state at a very interesting crisis of our public affairs. The pacific disposition invariably manifested and pur-

sued by the wise and faithful administrators of the general government has hitherto succeeded in shielding us from a participation in those calamities and miseries with which Europe is scourged. It inspired sanguine hope that measures, dictated by a spirit so conciliatory, would be attended with continued exemption from foreign insult, depredation or war. But the late unprovoked and unprecedented attack upon the frigate Chesapeake by a British vessel; the unwarrantable pretensions of Great Britain to arrest and bear away seamen from our ships upon the ocean, to intercept and destroy our lawful commerce with nations with whom she is at war, and the glaring infringements of the established principles of the law of nations, avowed and practised both by France and Great Britain, have seriously impaired the rights, wounded the honor and assailed the independence of our country.

These events have diminished the hope of maintaining peace, notwithstanding the uniform observance of justice and good faith towards other nations, and have produced the necessity of resorting to energetic measures. The proceedings, adopted on the emergency by our national legislature, will be found, upon an unprejudiced consideration, not only impartial towards the contending nations of Europe, but also well calculated to protect our mariners and preserve the merchandize of our citizens, should an appeal to the sword become inevitable. In such an event, property of immense value will be secured in our country, which, but for the embargo, might have enriched the coffers of the very enemy with whom we may have to contend. The causes of misunderstanding and obstacles to amicable adjustment, arising from captures under blockading decrees and from impressment of seamen, will also thereby cease to be multiplied.

The well known facts, that the commercial enterprize of France and her allies has, from a variety of causes, become almost extinct, and that she materially depends for her necessary supplies of provisions and other articles of foreign merchandize, and for the transportation of her colonial produce, upon the unrestrained commerce of American merchants, independently of the acknowledged integrity and patriotism of our public agents, repel the absurd idea, that the recent measures originate from partiality to that country, or from any subserviency to her views.

Every liberal and candid mind will ascribe the imposing an embargo, to a sincere desire to avoid an interference in European broils, to protect our seamen and to secure the property of our citizens, in the event of an unpropitious termination of our negotiations with any of the belligerents. What patriotic citizen will murmur at the temporary privations and inconveniences resulting from this measure, when he reflects upon the vast expenditure of national treasure, the sacrifice of the lives of our countrymen, the total and permanent suspension of commerce, the corruption of morals and the distress and misery consequent upon our being involved in the war between the nations of Europe? The evils which threaten us call for a maganimous confidence in the efforts of our national councils to avert them; and for a firm and unanimous determination to devote every thing that is dear to us, to maintain our rights and national honor.

Being thus circumstanced, it becomes our duty to be assiduous in providing for the welfare and security of the persons and property of the citizens of this state. The appeal to the general government for an efficient and permanent fortification of the

city of New-York, has not failed to excite their serious attention to that subject. The plan which has been undertaken, the degree to which it has progressed, the operations contemplated to be pursued, and the measures to which your sanction is desired, will be communicated to you without delay.

Although our anxiety is alive to the protection and safety of the city of New-York, and although our exertions to obtain complete security for that important capital should continue ardent and unceasing, we ought not, at the same time, to be unmindful of the exposed situation of our brethren upon the northern and western frontiers of our state. That enterprising portion of the community which has penetrated the wilderness and extended civilization and improvement to the very borders of our expanded territory, looks to you for assistance and protection at this momentous period. The hardships and difficulties to which they have submitted, their dispersed situation, their remoteness from the deposits of military stores, and the markets at which they may be purchased, the scarcity of money incident to new settlements, their exposure to the sudden attacks and merciless cruelties of unrelenting savages, and the unanimity with which they have tendered their services at the call of their country, combine in giving force to their entreaties to be furnished with the means of self-defence.

It affords me sincere satisfaction to inform you, gentlemen, that the detachment and organization of our quota of one hundred thousand men has been accomplished, and a return thereof for the war department nearly completed. The patriotism displayed on this occasion, by every description of our fellow-citizens, merits the greatest applause. All the artillery of the detachment, and most of the cavalry and infantry are volunteers;

and thousands beyond the complement required have tendered their services with promptitude and zeal. This generous conduct affords a pleasing evidence of the alacrity of our militia in advancing to the defence of their country, and of the valor which they will display in supporting its honor and freedom.

The obstacles encountered by the militia officers in detaching and organizing this quota, suggest the propriety of some alterations in the act, organizing the militia of this state. By the 3d and 5th sections of that act, it is provided that the cavalry and artillery shall parade for annual inspection under the orders of the brigadier-generals of infantry. It does not require the inspectors of infantry to transmit copies of the returns to the cavalry and artillery officers. When therefore the latter are directed to detach any of their men, their ignorance of the number and equipments of the several corps, precludes the possibility of an immediate compliance with the order. This defect may be remedied either by appointing brigade officers of artillery and cavalry, to inspect and make inspection returns of their brigade to the general officers thereof, or the additional duty of furnishing them with copies of the returns, might be imposed on the brigade-inspectors of the infantry. Should a sudden emergency produce the necessity of calling for a quota of militia, in any one year after the parades of that year had taken place, it may be questioned whether the men so detached could be compelled to assemble again in the same year, without compensation as for actual service, and it is therefore respectfully submitted, whether it would not be discreet to direct in such case, an additional parade of the detached corps for the purpose of obtaining muster-rolls and inspection lists. The expensive equipments of the cavalry, and the propriety of affording them

equal encouragement with other uniform troops, suggest the expediency of extending to them the privileges enjoyed by the artillery.

The officers appointed by an act of the late session to cede to the United States the jurisdiction of certain parcels of land, have not met for that purpose; as their power did not extend to those places of which jurisdiction has been requested, it became unnecessary to convene them. The places to which this request relates, will be specified in a separate communication.

The proceedings under the act of 1806, for procuring ordnance and ammunition, will also be speedily submitted.

The sum of three thousand dollars, granted for the purpose of erecting a powder magazine near the city of New-York, has not been expended. The act contemplated a different scite from that on which the old magazine is situated, and the sum appropriated proved inadequate to the purchase of another eligible tract and the erection of a building.

I have deemed it a duty to exercise the discretion confided by the constitution to the chief magistrate, in respiting the execution of John Williams, lately convicted of murder, in the county of Greene. The evidence adduced upon his trial, accompanied by the opinion of the presiding judge, will be immediately communicated for your consideration. The importance to the public, and to the individual, of every question, the decision of which involves the life of a fellow-creature, imposes the duty of affording to this case, impartial inquiry and solemn deliberation.

The persons authorized by an act of the last session, to confer and agree with those appointed by the legislature of New-Jersey, respecting certain claims of jurisdiction and territory,

have adjourned without adjusting and without a prospect of settling the controversy arising upon those claims. The measures, subsequently adopted by the legislature of that state, require your early attention. While it is our duty to cultivate and preserve amity with every member of the Union, it behoves us to guard with circumspection, and support with firmness, the rights of this state.

In every well regulated community, there are no institutions of higher concern than those which relate to the administration of civil and criminal justice. Our property, our liberty, and our lives depend on the adjudications of our courts. Hence it is highly interesting to all, that those who preside in them should be men of competent abilities and unsuspected probity. To call forth adequate talents and character to fill the seats of justice, such salaries should be given, as will enable the judges to support themselves and families, and in some degree provide for that retirement contemplated by our constitution. In addition to the permanent salary, an act, which has recently expired, allowed to the judge of the supreme court, holding the circuit or sittings in New-York, an extra compensation. By that act also, the judges residing in the city of New-York, were authorized to receive fees for chamber business. Whether a mode of compensating the judges for the extraordinary services required by the immense increase of business in the city of New-York, less partial in its operations cannot be devised, is submitted to your wisdom. I think it my duty to observe to you, that the multiplication of suits, from the increase of population and the organization of many new counties, will require the judges to be absent from home, at a great expense, for much longer periods than formerly; and that considerations of justice

seem to me to require a provision equal, at least, to that of which they are deprived by the expiration of the before mentioned act.

The improvement of agriculture, manufactures and commerce will, at all times, and under all circumstances, attract the attention, and command the exertions of a just and wise government; but in our present situation, external commerce being almost entirely cut off, and when it is not improbable that an appeal to arms will soon be made, it is peculiarly important to adopt all measures in our power, in order to increase the means of supplying ourselves, and to encourage those arts which contribute to the support and comfort of human life; to facilitate interior communication, and to invigorate the enterprising spirit of our country. Nor will the great and important duty of disseminating useful knowledge, and at any time, or in any crisis, escape the attention and encouragement of a liberal, enlightened and patriotic legislature.

Permit me, gentlemen, through you, to communicate to the electors of this state, my grateful acknowledgments for the confidence they have been pleased to repose in me. While my sensibility is awakened by the distinguished honor they have conferred, I can honestly assure them, that my conduct shall always be directed by a zeal to advance their welfare.

May that wise and bènign providence which has dispensed its richest favors to our country, endow us with wisdom to discern, and virtue to pursue, the best means of perpetuating the blessings we enjoy.

Albany, 26th January, 1808.

THE EMBARGO.

ANSWER OF THE SENATE OF THE STATE OF NEW YORK TO THE SPEECH OF HIS EXCELLENCY THE GOVERNOR. (1808).

Sir: From the liberal and pacific disposition uniformly manifested by the general government to the belligerent powers, we had the strongest reason to expect, that their conduct towards us although not particularly indulgent, would have been sufficiently guarded by the known and hitherto uncontrovertable rules for the conduct of nations, to have prevented serious misunderstanding with either of them; but when the most unwarrantable pretensions, subversive of those established principles, are insisted on, accompanied with acts of decided hostility and wanton cruelty, we feel the absolute necessity of resorting to such measures, as will secure our sovereignty, and restore the wounded honor of our country—We, therefore, do not hesitate to express our decided approbation of the late energetic measures adopted by our national administration, and we unite with your Excellency in opinion, that the most salutary consequences to our country will probably ensue; for while the present embargo manifests the confidence of our representatives in the patriotism of their constituents, by stedfastly enduring temporary privations, to promote the public welfare; (a circumstance not without its influence abroad) it evidently removes the possibility of increasing the treasures of an enemy by continuing the usual mercantile intercourse until actual warfare takes place.

We cannot admit the absurd and degrading idea, that the rulers of a free and enlightened people, with ample means to defend themselves, can possibly be capable of pursuing measures subservient to the views of any nation. And the integrity and patriotism of our public agents in the general government, ensure a confidence that our national rights and honor will be protected and maintained.

The exposed situation of the City of New York and of our northern and western frontiers, has excited our serious attention, and we trust that the general government will not hesitate to perform their constitutional duties in these respects; and we on our part will endeavour faithfully to discharge ours.

The patriotic spirit of our fellow citizens has been awakened, and with a pleasing sensation we view their alacrity in obeying, and even anticipating the calls of their country; and whatever defects may appear in the militia system, requiring legislative interference we will promptly remedy.

We are aware of the vast importance attached to the judiciary of every well regulated community, and doubt not that the just and appropriate observations of your excellency on that subject, will command the deliberate and solemn attention of the legislature.

The various other important and useful subjects recommended by your excellency, shall receive our earliest attention; and we trust that the disposer of human events, will so direct the councils of our country, as to promote its best interests, and continue the blessings we enjoy.

The Senate congratulate your excellency, on the distinguished honor conferred upon you by the suffrages of a free people; and they feel persuaded that you conduct will continue to merit and receive the confidence and approbation of the state.

THE GOVERNOR TO THE SENATE.

Gentlemen, I rejoice that your zeal to promote the true interests of our constituents, and your confidence in the wisdom and integrity of our national administration, are unimpaired by the serious aspect of our public affairs—The assurance of devoting an early attention to the several subjects which I had the honor of communicating to you, is highly gratifying to me,

and at the same time evinces your solicitude to advance the public good.

While your congratulations upon my election, and the confidence you are pleased to express in the correctness of my future conduct, receive my cordial thanks, they will be additional inducements for striving to merit a continuance of your approbation.

Accept the assurance of my ardent desire to yield a prompt co-operation in every measure calculated to promote the welfare of our fellow citizens.

Albany, February 2nd, 1808.

ANSWER OF THE ASSEMBLY TO HIS EXCELLENCY DANIEL D. TOMPKINS, GOVERNOR
OF THE STATE OF NEW YORK.

Sir: The Assembly fully coincide in opinion with your Excellency, respecting the critical state of our national government, and the unjustifiable aggressions of the belligerent powers upon the honor, commerce and rights of this country; and that the measures recently adopted by the general administration are eminently calculated to secure the property and persons of our citizens, and to evince to the world that we are ready to endure every privation, and to encounter any hazard in vindication of the honor and welfare of our nation.

The absurd calumnies respecting the operation of foreign influence, and the improper attempts to excite clamour against the wise and faithful administrators of the general government, for an Act justified by our exterior relations, and imperiously required by every principle of self preservation, are calculated to excite no other sentiments than those of indignation and contempt.

The defenceless state of our principal sea-ports and our Western and northern frontiers, and the strong claims they have upon the protecting hand of government, have made a serious impression on our minds, and will not fail to receive our earliest attention; and while the patriotic spirit manifested by the militia, is entitled to our highest applause, we shall deem it our indispensable duty to ameliorate and improve a system upon which all free governments must principally rely for support and protection in the hour of danger. The various other important subjects recommended by your Excellency will receive our deliberate consideration.

In the promotion of knowledge, the improvement of agriculture, commerce and manufactures, and the proper dispensation of justice, we recognize our cardinal duties as legislators.

As the representatives of the people of this state, permit us to communicate the pleasure we feel in your election to the highest office in the government, and to assure you of our zealous co-operation in all measures which will promote the good of our common country.

May the divine protector of the universe inspire you with wisdom, direct you in your councils, and lead you in happiness through your public and private duties.

February 2nd, 1808.

THE GOVERNOR TO THE ASSEMBLY.

Gentlemen: Your coincidence in the sentiments which I have had the honor to communicate, and your determination to devote serious attention to the various subjects, submitted for your consideration, are, to me, sources of the most pleasing reflection.

Accept my thanks for the flattering manner in which you are pleased to notice my elevation to the office of chief Magistrate. I heartily unite in your supplications that the protector of the universe will direct our councils and continue our prosperity.

Daniel D. Tompkins.

Albany, February 3rd, 1808.

DEFENCES OF NEW YORK CITY.

CORRESPONDENCE BETWEEN VICE-PRESIDENT CLINTON, SECRETARY OF WAR DEARBORN, COLONEL WILLIAMS AND GOVERNOR TOMPKINS.

Gentlemen, The enclosed documents will afford the legislature a full view of the operations of the general government towards fortifying the City of New York, and of the measures necessary to be taken on the part of this state to authorise the prosecution of the plan, suggested in the letter of the Secretary at War, and of the arrangements mentioned in the letter of Col^d. Williams—When the latter requests a cession of the title and jurisdiction of all the land owned by the state adjoining the buildings, purchased by the United States of Mr. Lent, I presume he refers to the ground upon which Mr. Lent's buildings are erected, and the lots to the southward of it, and not to the ground appurtenant to the government house.

Daniel D. Tompkins.

Albany, February 1, 1808.

AN EXTRACT OF A LETTER FROM GEORGE CLINTON, VICE-PRESIDENT OF THE UNITED STATES, TO THE GOVERNOR OF THE STATE OF NEW YORK.

Washington city, January 21, 1808.

Dear Sir: Last night I received from the Secretary at War the enclosed sketch of part of the harbour of New York, and description of a contemplated additional defence against the approach of hostile ships to that city; and as a cession of the bed of the river will be required, before the proposed plan be carried into effect. I embrace the earliest opportunity of transmitting them to you, that you may be enabled to make such use of them, at the meeting of your legislature, as the interest of the state may require. There is nothing new in the project of chains. They have been long in use, and have been considered one of the best obstructions against the passage of ships, when protected by efficient batteries. The proposed chevaux-de-frize, is, as far as I know, on a new construction; and, although the project appears plausible, experience alone can test its practicability and efficiency.

SECRETARY OF WAR DEARBORN TO VICE-PRESIDENT CLINTON.

War Department, January 20, 1808.

Sir: I have the honor of presenting you with a sketch of part of the harbor, and of the blocks, chains and chevaux-de-frize, proposed as an additional defence against the approach of hostile ships to the city of New York. By this mode of defence

the objection to the contemplated line of blocks, is obviated, viz—such an obstruction to the course of the tide as might effect the navigation of the river. This system will not occupy more than from one fifth to one fourth of the bed of the harbour between Bedlow's Island and Long Island, and consequently cannot have any sensible effect on the course of the tide.

It is proposed, that the blocks should be 150 feet from each other, and be 42 feet in length, and 28 feet in width, at the surface of the water, at the lowest ebb tide, and increase, in length and in width, at the rate of three inches to each foot, down to their basis, as described in the drawing—the two chains to extend from block to block, and to be secured by strong oak posts worked into the blocks from their basis, as in the drawing; the chevaux de frize to be formed of long spars, shod with iron at both ends; the butt ends to be attached by strong chains to the front chain, and the other ends to pass under the rear chain, and to rest on the bed of the river, as described in one of the drawings.

You will please to make such use of this communication as you may judge expedient.

A suitable cession of the bed of the harbour, by the Legislature of New York, will be necessary to enable the Executive of the General Government to carry the proposed system into effect.

I am with high respect &c. &c.

H. Dearborn.

COLONEL JONATHAN WILLIAMS TO GOVERNOR TOMPKINS.

Fort Columbus, December, 1807.

Sir: Previously to my quitting the works at this post for the Winter season, I conceived it to be my duty to lay before Your Excellency the necessary information relative to my operations in this harbor generally, in order that the requested legislative cessions may be fully commensurate with the objects proposed.

By the enclosed copy of my instructions, No. 1, you will perceive that my duties have been directed to the following points: 1st. Governor's Island, 2nd Bedlow's Island, 3rd, Ellis's Island, 4th, A place of deposit for military stores, near the battery of N. York, 5th Positions on the north river at the battery, & near Rhinelanders, 6th A Magazine, laboratory, &c at Potter's field. The jurisdiction of the three first named points have been already ceded to the United States by the State of New York, under an Act of the legislature passed 15th Feby. 1800, extract of which is annexed, No. 2 it is not necessary therefore to trouble you with any observations relative to them so far as relates to jurisdiction.

Ellis's Island is private property, in part possessed by the United States, and in part by the heirs of the late Mr. Ellis; but even the site of the old battery has not been regularly ceded by the proprietor, although fully agreed to by him: the deed was prepared by consent of parties, but Mr. Ellis died before it was executed; the possession therefore is not legally confined. It seems that Mr. Ellis's property in this Island did not extend below high water mark, since I find by the minutes of the corporation that the land between low and high water mark has been ceded by that body to the state.

The island above high water mark is doubtless the private property of the heirs to Mr. Ellis's estate; and I should, according to my instructions, have purchased it at any reasonable rate, if it had been possible to obtain a legal title. The situation of this property, I need not detail to you who well understand it; but you, as well as myself, are I believe convinced, that owing to the doubtful title and numerous claimants, it is only to be fairly and legally obtained by an act of the legislature first taking possession and their regulating the value by a jury of the vicinage in the nature of "ad quod damnum" The fee being vested in the state, the cession may be made in the usual way, the United States paying the sum assessed; the district Attorney concurs in this representation, and further suggests that owing to the various claimants and litigated claims, it will be proper for the Act to designate to whom the purchase money shall be paid, or where lodged, to vest the right of soil in the purchase, thereby having the disputants to contend for the value of their claims, instead of the land itself.

The fee simple of this property being unattainable without legislative aid, I have not thought myself justifiable in doing more than to make a convenient landing place for all the purposes that may be wanted; this being situated between low and high water mark cannot be considered as standing on private territory.

I have purchased of James W. Lent, (the lessee of the lot in the rear of the mansion, now used as a Custom House) the buildings which have been erected by him, and a transfer of his lease has been made by your approbation. A copy of the lease and transfer are hereunto subjoined, No. 3 & 4.

It being the intention of the government to build a casemated tower battery, with several tiers of heavy metal at the point of the old battery, beyond the present flag staff, and the construction of this battery leaving only space for the military stores in actual service, it became necessary to have a deposit as near to it as possible; for this reason the purchase of Mr. Lent's buildings was made. It will be seen by my orders that the deposit of powder in this place, is expressly excepted; it would, therefore, in my opinion very much conduce to the benefit of the public, and cause no alarm to the citizens, if the proposed cessions of this place were so extended as to enable the government of the United States to construct stores on every side and leave a large area within, for such articles as are too bulky to be conveniently housed, or do not require any further defence than a shed; and as all the space belonging to the State is not too much for the purpose, it may perhaps be thought advisable to make a cession of the whole. Besides the advantage of a deposit for the Military implements and stores wanted for the battery, the convenience for this position for debarking stores, or shipping them to other places, is a very important object; and a quantity of transportable heavy artillery might be kept mounted in constant readiness to go with the utmost celerity to any point on either side of the city, where a sudden and unexpected attack might be made, with as much facility as engines are transported to a fire.

The positions on the North river near the battery and near Laight Street (the latter being taken in lieu of the one proposed at Rhinelander's) have been granted by the corporation to the extent of their rights: As these may be bounded by some under-water line, it would I presume be proper to form the cession of jurisdiction in such a manner as to embrace all the state rights that may commence, where those of corporation terminate.

The grant of Potter's-field has also been made by the corporation and nothing remains for the State to do, except the cession of the jurisdiction, which will doubtless be so formed as to place all the points in question, in one and the same predicament with those already ceded to the United States. The several boundaries of the corporation grants are inclosed, Nos. 5, 6 & 7.

Hitherto I have confined myself to the plan of interior defence; but as my orders imply an intention to make additions "farther in advance," I thought it might be agreeable to you, to have copies of my original report to the Secretary at War, when I surveyed part of this harbour, in 1805, with some attendant papers, which you will find enclosed, No. 8.

As a copy of my chart is in the hands of the corporation and not materially different from others, that are doubtless in the possession of the state, it is unnecessary to subjoin one. The reports I have occasionally made to the corporation, having been printed, for the purpose of distribution, I beg you to accept them in that form, Nos. 9 & 10. I hope it will not be thought improper in me, to remark, that, as a defence, farther in advance, is evidently contemplated, it might much accelerate such objects, if the commissioners, to be appointed, were empowered to make other cessions on Staten and Long Island, and in the bed of the harbour between them, as the nature of the case may require. You have probably received more ample intimations on this subject from the Secretary of War himself, and the report made by the corporation has doubtless been communicated to you. I need not, therefore, trouble you with any extension of this remark.

I have the honor to be, with the greatest respect, Sir, Your most obedient Servant.
Jona. Williams, Lt. Col. Com. of Engineers.

His Excellency, Daniel D. Tompkins
Governor of the state of New York.

EXTRACT FROM THE WILL OF SAMUEL ELLIS, DATED 4TH JULY, 1794.

"Item—I do give and bequeath unto the child, that Catherine Westervelt is now pregnant with, should it be a son, Oyster Island, commonly known by the name of

Ellis's Island, with all the buildings and improvements thereon; should it prove a daughter, then in that case, she comes, with the rest of the children, for an equal proportion of the above mentioned lots left to the children of the said Catherine Westervelt. It is my wish that the boy may be baptized by the name of Samuel Ellis."

The testator devises the rents of one half of the residue of his estate to his daughter, Rachel, for her life; and after her death, the said moiety to her children and their heirs.

The Testator devises the rents of the other half of the residue of his estate to his daughter, Elizabeth, during her life; and after her death, the said moiety to her children, and their heirs.

THREE CHANGES IN THE BOARD OF REGENTS OF THE UNIVERSITY.

Albany, 6th February, 1808.

Sir, I have the honor to transmit my father's resignation of the office of regent.* The death of the Rev. Dock Linn,† and of the Honorable Zephaniah Platt,‡ together with the enclosed resignation, will occasion three vacancies in the regency.

Daniel D. Tompkins.

Scarsdale, 30th January, 1808.

Gentlemen, On account of my advanced age, and the infirmities incident to it, I have for some time found it impossible to pay that attention which is proper and necessary to the office of a regent of the university. With sentiments of gratitude for the honor conferred in my appointment to that office, I hereby resign the same, and respectfully request you to accept the assurance of my confidence and respect.

Jonathan G. Tompkins.

To the honorable the Senate and Assembly of the State of New York.

*Johnathan Griffin Tompkins was appointed Regent April 13, 1787, under the reorganization act. He was succeeded Feb. 11, 1808, by Alexander Sheldon of Montgomery, who served as Speaker of the Assembly in 1804-6, 1808 and 1812.

†The Reverend Doctor William Linn was appointed Regent April 13, 1787 and was succeeded Feb. 11, 1808, by Dewitt Clinton.

‡Zephaniah Platt succeeded as Regent, January 15, 1791, Eilardus Westerlo and in turn was succeeded Feb. 11, 1808, by Peter Gansevoort, jr.—STATE HISTORIAN.

NEW YORK AND NEW JERSEY BOUNDARY DISPUTE.

HISTORY OF THE MATTER WITH THE VOLUMINOUS CORRESPONDENCE
BETWEEN THE COMMISSIONERS.

Gentlemen, I have the honor to enclose for your information the report of the commissioners under the Act of the last session, entitled "An act respecting a claim for the extension of the eastern boundary of the state New Jersey.

Daniel D. Tompkins.

Albany, February 15th, 1808.

To His Excellency Governor Tompkins:

Sir: We have pursuant to our trust, as commissioners, appointed by the Act of the Legislature of the 3d of April last, entitled "An Act respecting a claim for the extension of the Eastern boundary of the state of New Jersey," met the Commissioners appointed on the part of New Jersey, and conferred with them respecting their claim; we now report to your Excellency the conferences or proceedings between them and us as contained in the papers herewith presented.

The New Jersey commissioners, it appears, claim, in behalf of their state, "as comprehended in the grant from the duke of New York to Berkley and Carteret, Staten Island, the Hudson and flum aquae and all the ports, harbours, bays and arms of sea, lying contiguous to the eastern shore of New Jersey, and infra fances terra as far down as Sandy Hook.

To a claim, so far surpassing whatever may be presumed to have been conceived by the legislature of New York when they assented to the reference of commissioners, proffered by the legislature of New Jersey, we would perhaps have been justified in instantly opposing, and as decisive, the more notorious fact, that New York has, coeval with the commencement of the colonial governments of the two states, hitherto, actually and constantly exercised or possessed the jurisdiction over the river Hudson, and Staten Island, and the bay between it and Long Island, as a portion of her rightful territory, we nevertheless deemed it advisable, and especially for the reason declared in our first communication to the New Jersey commissioners, "that although we should meet them with every disposition to consult the mutual and due convenience of both states, yet their respective rights, as they might be found to be, must in some measure serve as the grounds of any proposed compact between them," to examine the claim itself on its original or true merits, as far as the evidence which might still be discovered could enable us; and considering the antiquity of most of the transactions, we have been more successful in our researches, than, perhaps, there was reason to hope.

We had conceived, when we adjourned, after the first meeting, that the written communications to be exchanged, when we should again assemble, were to be confined to the facts or proofs we might respectfully collect or discover during the recess, so that the conferences or reasonings were to be verbal; the written, elaborate, argumentative communications, therefore, which the New Jersey commissioners delivered to us, on our delivering to them our statement of facts, was rather unexpected. Our answers were such only as the time would permit, and for that reason, are not so full and formal as possibly they otherwise might have been.

Immediately after our communication to the New-Jersey commissioners of the 5th October, a verbal conference of some hours took place, but which consisted almost wholly in recapitulating or explaining what had already passed in writing.

One subject, however, forming no part of the written communications, except a very imperfect intimation of it, requires, as will be perceived, to be particularly noticed and reported.

The New Jersey commissioners, in the second of their two first communications, had mentioned, "that the right of soil and government being in the duke of York, he formed a tract of land, lying westward of Long Island and Manhattan Island, into one Colony, and another tract of land lying on the east side of the Hudson river, and including a northern district of country, into another colony. The two colonies built docks and piers, and erected ferries and fishing weirs, on or contiguous to each of their shores, at pleasure, and used and occupied, and enjoyed the river: that the only difference between the two colonies, in this respect, is, that New Jersey has a written authority for what they do, and New York has none; and that New Jersey should be placed in a worse situation with a written, than New York without a written title, was to them a matter of surprise.

The grant from the Duke of York to Berkley and Carteret, is unquestionably to be satisfied to its entire extent, according to a due or legal interpretation of it, but New York being in possession, New Jersey is still to recover on the strength of her own title; the suggestion, therefore, of a defect of any kind in the title of New York, was wholly immaterial, and we accordingly, in our subsequent communication, suffered it to pass unanswered. During the verbal conferences, the New Jersey commissioners, after reminding us of the supposed omission, put the question to us, whether New York had any Charter, or grant, or other writing, as the evidence of title or boundary? To which we answered, that the grant from King Charles to the duke of York, was as it respects the territories it contained, the evidence, or source, of right in New York, and of which, as we conceived, we had informed them when we stated, "that Nicolls entered on the exercise of civil government in consequence of a commission from the duke;" that accordingly, in the controversy between New York and New Hampshire, respecting the eastern boundary of New York, in the year 1750, the then Governor of New York was advised by his Council to acquaint the Governor of New Hampshire, that New York was bounded eastward by Connecticut river, the grant to the duke being for all the lands from the West side of Connecticut river to the East side of Delaware bay: that the controversy was, by both the colonies, referred to the king in council, who in 1764 adjudged the Western bank of the river to be the boundary line between New York to the river as the eastern boundary, but at the same time restricting it to the bank of the river, on the ground, as we presumed, that New York was to extend from, or be bounded by the river, and that there were no express words in the grant to pass it, as there were to pass the Hudson, "together also with the said river called Hudson's river;" that we had understood that New Hampshire, thenceforward held or claimed against New York, and still continues to hold or claim against Vermont, the jurisdiction of the whole of the river where it passes between their shores; and that the adjudication is properly applicable to the present case, and entitled to be received as of authority, and peculiarly so, if, as was reported here at the time, it was only proceeded chiefly from Lord Camden, the Chief Justice of Common Pleas, as a member of the council, but that he even furnished the form of it.

Whence the New-Jersey commissioners imagined we intended to humiliate their state, or to impute to them that "they were treating for convenience of individual citizens at the expence of the just rights of the state," is to us inconceivable.

The whole is respectfully submitted, By your Excellency's obedient Servants—

Ezra L'Houmedieu
Samuel Jones
Egbert Benson
Joseph C. Yates.

20th January, 1808.

STATE OF NEW JERSEY AN ACT CONCERNING THE EASTERN BOUNDARIES OF THE
STATE OF NEW JERSEY, PASSED 2ND NOVEMBER, 1806.

Whereas King Charles the second granted to James Duke of York, sundry tracts in America, whereof the now state of New Jersey and the now state of New York were then parts, together with all the Islands, soils, rivers, waters, harbors, royalties, and certain powers of government, in and over the same; And Whereas, James Duke of York, granted the then province and now state of New Jersey, being described in the said grant, as a tract of land adjacent to New England, and lying and being to the Westward of Long Island and Manhattan's Island, and bounded on the east in part by the main sea, and in part by Hudson river, together with the said royalties and powers of government over the same, to John Berkley and Sir George Carteret, and

their assigns, who used and exercised all such royalties and powers of government until they surrendered the same unto the crown of Great Britain: And, whereas, afterwards the said respective provinces of New Jersey and New York, became vested with full right and lawful authority to exercise jurisdiction in and over the said Hudson river, and the said main sea, and all the ports, harbors and havens, lying adjacent to and along the Jersey shore and coast, in such manner as belongs to a sovereign and independent state to use and exercise: And, whereas, it is highly expedient that the State of New York and the State of New Jersey should enter into a neutral agreement in respect to the exercise of their several and respective jurisdictions and their several claims of territory, wherever they may be supposed to interfere, in such way as may best promote mutual accommodation, harmony, and good understanding between them forever: To these ends, therefore,

I. Be it enacted by the Council and general assembly of this state, and it is hereby enacted by the authority of the same, that Aaron Ogden, William S. Pennington, James Parker, Lewis Condict, and Alexander C. McWhorter, Esquires, or a majority of them, be commissioners, with full power and authority in behalf of New Jersey, to meet and make final agreement in regard to the premises, with commissioners in behalf of the state of New York to be appointed by a law of that state with like full powers, if, to them, it shall seem expedient, in such manner as finally to settle the limits and extent within which they shall exercise their right of jurisdiction respectively, in and over all the waters lying and being between the shores of the said states respectively; and further, finally to settle and determine the eastern boundary line of the state of New Jersey, as to them by mutual agreement may seem just and reasonable; which agreement in writing, signed and sealed by the said commissioners respectively, if made on or before the 15th day of November next, shall become binding on this state, when confirmed by the respective legislatures of New York and New Jersey.

II. And be it enacted, that the said commissioners do meet at such time and places as may be mutually agreed on between them.

III. And be it enacted, that the Governor of this State shall immediately transmit to the Governor of New York a copy of the act, duly certified, in order that he may lay the same before the legislature of that state at their next session; and that the said Governor of this State have power to appoint a commissioner, or commissioners, for the purpose aforesaid, in behalf of the state of New Jersey, in room of any commissioner, or commissioners named herein, who may die, or decline to act as such.

AN Act respecting a claim for the extension of the eastern boundary of the state of New Jersey, passed April 3rd, 1807. Whereas the Legislature of the state of New Jersey, by an act, entitled "An act concerning the eastern boundary of the State of New Jersey" have appointed commissioners to negotiate and agree with commissioners to be appointed by this State, respecting certain claims of jurisdiction and territory, mentioned in the said act, and made by the same state of New Jersey.

Be it, therefore, enacted by the people of the state of New York, represented in senate and assembly, that Ezra L'Homedieu, Samuel Jones, Egbert Benson, Simeon DeWitt, and Joseph C. Yates, Esquires, or a majority of them, be, and hereby are, appointed Commissioners, with full power and authority to meet, confer and agree, with the said claims of the said state of New Jersey: Provided, always, that such agreement shall not be binding on this state, unless made on or before the fifteenth day of November next, and confirmed and ratified by the respective legislatures of New Jersey and New York, within one year after it shall be made.

NEW YORK STATES HER CLAIMS TO NEW JERSEY THROUGH EGBERT BENSON.

New York, April 22nd, 1807.

Dear Sir: You will doubtless soon be informed through your own executive, that our Legislature have appointed Messrs. L'Homedieu, Jones, DeWitt, Yates, and me, commissioners, on the part of this state, to meet you, and the other commissioners on the part of your state, for the purposes intended in the act of your Legislature, concerning your eastern boundary.

Mr. L'Homedieu was here a few days since, on his way home, at the east end of Long Island, from attending the legislature in Albany, and informed me that Messrs. DeWitt and Yates, who reside, the one there, and the other at Schenectady, and he, had concluded to leave it to Mr. Jones and me, and to do whatever was requisite to be done previous or preparatory to the meeting between you and us, and which we were to intimate should be in this city on the 20th June next; but that if any other time or place would better suit the personal convenience of you, or any of your colleagues, there was to be no difficulty in accommodating it.

I, thereupon, went to Mr. Jones, who resides in Queen's County, and we conceived it would be proper, I should instantly write to some one of the gentlemen of your commission, and mention, that although we should meet you with every disposition to consult the mutual and due convenience of both the states, yet that their respective rights, as they may be found to be, must in some measure serve as the grounds of any proposed contract (?) between them, and that I should certainly state, that we should claim, on the part of New York, that New Jersey was entitled to the jurisdiction only as she was entitled to the property; that nothing passed by the grant of the Duke of York to Lord Berkley and Sir George Carteret, below high water mark, and

and that New York has always, and without any claim by New Jersey, exercised jurisdiction over the whole of the waters between the shores of the two states; and to request an interchange of a like statement of the right, as you will claim it, on the part of New Jersey, to the end that you and me may know how to direct our enquiries, both as to principles and facts, and be prepared for the requisite discussion or examination at the first meeting and thereby prevent the delay of an adjournment for further argument or for the production of further proof.

I remain with due respect, Dear Sir, Your obedient Servant,

Egbert Benson.

Alexander McWhorter. Esqr.

Newark.

MR. M'WHORTER REPLIES TO MR. BENSON:

Newark, 27th April, 1807.

Dear Sir: Your letter upon the subject of the boundary line between the two states, under date of the 22nd Instant did not reach me till this moment, owing I believe to some irregularity in the post office of this place. On Saturday afternoon, last, Mr. Riggs handed me a copy of the law of your state. I am much obliged to you for these communications, and shall immediately advise my associates thereof. I am, with great respect and Esteem, Yours &c.

Alex'r. McWhorter.

Egbert Benson, esqr.

NEW JERSEY'S CLAIMS AS REPRESENTED BY AARON OGDEN.

Elizabeth Town, June 18th, 1807.

Dear Sir: The Commissioners on the part of New Jersey, although not as yet officially informed of the law which has passed your legislature, appointing Commissioners &c have come to a resolution to enter upon a very preliminary measure which may tend to expedite the business for which they were named.

They, therefore, propose a meeting at such time and place as may be agreeable to the commissioners of New York, after the tenth of the ensuing month, presuming that in the meantime the necessary official communication may be sent by the Governor of New York to the Governor of New Jersey, without which we shall have no authority.

The Commissioners of New Jersey propose to claim, as follows, and have requested me to notify you accordingly, agreeably to your request to Mr. Whorter.

I. That New Jersey, in virtue of her being a sovereign state, has the exclusive jurisdiction or dominion in, and over, all the waters, bays and harbors, lying contiguous to her shores, so far as may be necessary for defence, freedom, and entire independence.

II. That the grant of the Duke of York to Berkley and Carteret comprehends Staten Island, the Hudson river, the filum aquae, and all the ports, harbors, bays, and arms of sea, lying contiguous to the eastern shore of New Jersey, and infra fances terrce, as far down as Sandy Hook.

The Commissioners on the part of New Jersey, at the same time, reciprocate the idea, that they will meet every disposition to consult the mutual and due consideration of both the states.

I am Sir, With entire respect Yours most obedient Servant,

Aaron Ogden.

Egbert Benson, Esqr.

THE COMMISSIONERS HOLD THEIR FIRST MEETING.

New York, June 19th, 1807.

Dear Sir: I received yours of yesterday, and communicated it to Messrs. L'Homme-dieu, Jones, and Yates, Mr. DeWitt not having arrived, but is expected here to morrow, and we have concluded to meet you, and as many of your colleagues as you may be able to convene, and take a friendly dinner with you at Newark, on Monday, when we can better discover and consult the mutual convenience of each other as to the place and future time of meeting, and possibly some previous matters may occur, which may most conveniently be arranged by verbal conference. I am, with due respect, Your's &c.

Egbert Benson.

Aaron Ogden. Esqr.

The Commissioners on both sides met accordingly, and it was then agreed that the next meeting should also be at Newark, and on the ensuing 28th of September.

NEW YORK PRESENTS A HISTORICAL REVIEW.

Gentlemen, In addition to the general fact, "that New York has always and without any claim by New Jersey, exercised jurisdiction over the whole of the waters between the two states," we have judged it proper to state particularly the following matters in writing, previous to any verbal conference between us.

King Charles the second, claiming the Country comprehending the shores and waters in question, then held by the Dutch, and to which they had given the name of New Netherland, granted, inter alia, a part of it to his brother, the Duke of York, on the 12th March 1683-4, by the description of "all that Island or Islands, commonly called by the several name or names of Motowacks or Long Island, situate and being towards the west of Cape Cod and the narrow Higansettes, abutting upon the main land between the two rivers there called or known by the several names of Connecticut and Hudson's river, and all the land from the West side of the Connecticut river to the East side of Delaware bay" with certain powers of government or sovereignty.

The Duke, by lease and release, of the 23rd and 24th June, in the same year, conveyed a part of the above lands to Lord Berkley and Sir George Carteret, by the description of "all that tract of land adjacent to New England, and lying and being to the Westward of Long Island and Manhattan Island, and bounded on the East part by the main sea and part by Hudson's river, and bath upon the west Delaware bay or river, and extendeth southward to the main ocean as far as Cape May at the mouth of Delaware bay, and to the Northward as far as the northernmost branch of the said bay or river of Delaware, which is Forty one degrees and forty minutes latitude, and crosseth over thence, in a straight line, to Hudson's river, in Forty one degrees of latitude, which said tract of land was thereafter to be called by the name or names of Casaria or New Jersey, "habendum", in as full and ample manner as the same was granted to the Duke."

This conveyance is the foundation of the claim of New Jersey, and the questions arising on it between the two states, and which we conceive to be the subject of the present reference, are,

First.—Whether that portion of the boundary expressed, part by the main sea and part by the Hudson's river, and extending thence along the shore to the mouth of the river, assumed to be at the extremity of Manhattan Island on the east, and Constables hook, or whatever other may be considered as the corresponding or opposite point on the western shore, on the west; or a line commencing in, and extending through, the channel of the river? or, in other words, whether the littus, the high water mark, or the flum aquae, the channel, is to be adjudged the boundary?

Secondly.—Whether the line, after it leaves the river, be it either high water mark, or the channel, is to pass on the eastern, or western, side of Staten Island?

The last question may be viewed as revolving itself into another, namely, Whether the water, which, in the phraseology of the grant hereafter cited, parts Staten Island and the main, commonly known as the Sound, is not a portion of the main sea intended in the conveyance?

Van der Donck, a dutch writer, was in New Netherland some years, and published his description of it in 1656. After having noticed Delaware bay, he proceeds, "Now to pass over the bay in which the East and North rivers fall in together, and in which Staten Island lies",—"and because it is the most frequented and most populous, and in and through it the most trade and traffic is carried on, and also because it lies in the middle of New Netherland, so it is quasi per excellentiam called the Bays";—"it is the more famous, for there the East and North rivers fall in together, being two very fine rivers to be hereafter more particularly described, together with several kills, guts and creeks, and some of them to be likened to small rivers, and also navigable, as the Raritan-kill the kill of the Cul, Neversink, &c'"—"besides that in this bay more than one thousand ships of burthen may, and all within the land, make an harbour, and may lay handsomely safe from dangerous winds";—"that entrance into this bay is wide enough, and to be found, without much danger, readily by those who have once been there or have been well directed respecting it, and one can often with ease, if so minded, and the wind serves, immediately sail up, with one and the same running tide, from the sea to before the city of New Amsterdam, which is five miles from the open sea, with full lading, however large or burthensome the ships may be, and in like manner return again to the sea; but in going out it is usual to come to under Staten-island, at the watering place, to lay in a stock of water and wood, of both of which there is a sufficiency to be had"—"one may come too far in the bay behind

Sandy Hook, to take advantage of the wind and tide, and wait for the last messenger with letters."

New Netherland was conquered from the Dutch by the English, on the 27th of August, 1664, and Nicolls, who commanded the armament, immediately on the conquest, and in consequence of a commission from the Duke, of the 23rd of April preceding, entered on the exercise of civil government throughout the whole of the territory comprised in the grant to the Duke, under the style of his deputy Governor.

The letter from the Duke to Nicolls, notifying him of the conveyance to Lord Berkley and Sir George Carteret, or, as they, and their assigns, have been usually denominated, the proprietors, is dated on the 28th of November, 1664; but when, in the intermediate time, before the arrival of Philip Carteret, the first Governor under the proprietors, in the ensuing summer, it came to his hands, does not appear.

On the first of December in the same year, Nicolls granted to Baker and his associates a tract of land, described as follows: "A parcel of land bounded on the south by a river commonly called the Raritan's river, on the east by sea which parts Staten-Island and the main, and to run northward up Arthur Kull bay till you come to the first river which sets westward out of the said bay, and to run west into the country twice the length of the breadth thereof from the north to the south of the aforementioned bounds"—The water, parting Staten Island and the main, in the grant denominated sea, had, in the Indian deed procured by the grantees, in consequence of a previous license from Nicolls, and on which the grant was founded, been denominated a river. This grant as it regards a large portion of the land granted by it, has been usually distinguished as the Elizabethtown grant, and the claimants under it as the Elizabethtown people.

The proprietors as soon as this grant came to their knowledge, objected to it that the duke having already sold and conveyed the lands to them, there was no title in him at the time, and consequently the grant a nullity;—The Elizabethtown people, however, persisting to maintain it on the ground that they had purchased the Indian title, and that the grant had thereupon regularly passed to them, before any notice either to Nicolls or them of the prior alienation by the duke, a litigation between these parties respecting it took place, and which still existed at the commencement of the American Revolution; and if it is now to be considered as having ceased, it is to be attributed either to that event, or to a length of possession under the grant, or other circumstances, the effect of a lapse of time; and in a very early stage of it both the king and the duke gave their aid to the *proprietors* by formal printed declaration in opposition to the claims of the Elizabethtown people.

Governor Lovelace, of New York, in order to extinguish the claims of the Indians to Staten Island, made a formal purchase of it from them in behalf of the duke, on the 13th of April, 1670.

A partition of the entire tract, conveyed by the Duke to Lord Berkley and Sir George Carteret, having taken place, and the eastern moiety or East New Jersey having thereupon become the purport of Sir George, the duke, to the intent of *further assurances*, executed three successive releases for it, one to Sir George himself, on the 29th July, 1674, with the following description of its eastern boundary; "*bounded on the east part by the main sea and part by Hudson's River,*" another to his grandson and heir, on the 16th of September 1680, and the third to the earl of Perth and others, the then proprietors, on the 14th March, 1682, with the following description of boundary in each, "extending Eastward and Northward along the sea coast and the said River, called Hudson's river, from the eastside of a certain place or harbor lying on the southern part of the same tract of land" (the entire tract conveyed by the original conveyance from the Duke to Lord Berkley and Sir George Carteret,) "and commonly called or known in a map of the said tract of land, by the name of Little Egg Harbour, to that part of the said river, called Hudson's river, which is in forty one degrees of latitude."

Nicolls, by grant of 23rd December, 1667, after a recital in these words:—"Whereas there is a certain island, within this government, lying and being in Hudson's river, to the west of Long Island, between Nutten island* and the main, and about south-west from this fort, commonly called and known by the name of the Great Oyster Island; it being the biggest of the three small islands which lie there, near or adjacent one to another, to which said island there appears not to be any particular lawful owner, either natives or others, who have just title, or do lay claim to the

*The present Governors Island.

same", granted it to Robert Needham. This grantee the day after conveyed it to Isaac Bedlow, whose name it has borne from that time hitherto.

Governor Andross granted little Oyster Island, being the second in size of the three Oyster Islands, known also as a Bucking Island, to William Dyre. The date of the grant in this instance, is, as it respects the month and the unit in the year, left blank in the record of it.

In 1683, a body, exercising legislative authority, in the colony of New York, under the style of the Governor, Council and Representatives, passed several Acts, and among them, one entitled "An Act to divide this province and dependencies into shires and counties", with the following descriptions of the boundaries of the city and county of New York, and the county of Richmond: "The City and County of New York to contain all the islands commonly called Manhattan's island, Manning's island, and the two barn (Barren) islands; the city to be called as it is, New York, and the islands above specified, the county thereof." "The county of Richmond to contain all Staten Island, Shooter's Island, and the Islands of meadow on the west side thereof." These acts were re-enacted in 1691, and as it respects the City and County of New York, with the following variance: "The City and County of New York to contain all the island commonly called Manhattan's Island, Mannings Island, and the two barn Islands, and the rest of the islands the county."

The Charter to the City of New York, of 1686, contains the following description of its boundaries: "The City of New York, and the compass, precincts, and limits thereof, shall extend and reach itself, as well in length as in breadth, as in circuit, to the furthestmost extent of, and in, and throughout all that the said island Manhattan's, and in and upon all the rivers, rivulets, coves, creeks, waters, and water courses, belonging to the same island, as far as low water mark"; and grants to the corporation, "all the waste, unpatented and unappropriated land lying and being within the said city, and on Manhattan island, extending and reaching to the low watermark, in, by and through, all parts of the same city, and Manhattan's island aforesaid". The charter of 1708, grants to them "all the vacant and unappropriated ground, lying and being on Nassau Island, from high water mark to low water mark, contiguous and fronting the said city, from a place called the Wallabout to the Red-hook, over against Nutten Island; that is to say, from the East side of the Wall-about, opposite the then dwelling house of James Bobine, to the west side of the Red-hook commonly called the fishing place"; and notwithstanding, both as it respects Manhattan Island and between the Wall-about and Red-hook, on Long Island, the whole of the upland, or lands immediately bordering on, or expressed to be bounded by, the adjacent waters or respective rivers, had been priorly granted to private persons, the title of the corporation, as under those grants, to the land between high and low water mark, has never been questioned.

The Charter of 1730 contains the following description of the boundaries of the city: "To begin at the river, creek or run of water, called Spytden Duyval, over which King's bridge is built, where the said river or creek empties into the North river, on the West Chester side thereof, at low water mark, and so to run along the said river, creek or run, on the West Chester side, at low watermark, unto the East river or sound, and from thence to cross over to Nassau island, to low water mark, there, including Great barn island, Little barn island, and Manning's island, and from thence all along Nassau Island shore, at low water mark, unto the south side of the Red-hook, and from thence to run a line across the North river, so as to include Nutten Island, Bedlows Island, Bucking Island, and the Oyster Island, to low water mark, on the West side of the North river, or so far as the limits of the province extend there, and so to run up along side of the said river, or low water mark, or along the limits of the province, until it comes directly opposite to the first mentioned river or creek, and thence to the place where the said boundaries first began." Their charter also grants that the mayor of the city, for the time being, shall be bailiff and conservator of the waters of the North and East River's, and accordingly all arrests on these rivers were made by the mayor, as water bailiff, and the process for the purpose was directed to him. Of late, and probably within twenty years, the practice has by some means gone into disuse, and in place thereof the process is directed to the sheriff and served by him.

The three Oyster Islands and Shooter's Island, are respectfully, as relative to Manhattan Island and Staten Island, beyond, or westward of the channel.

There are records of more than one hundred and thirty grants, made at various times, by the successive Governors of New York, during the first thirty five years,

from the conquest, to different persons, for lands on Staten Island, some of them *original grants*, and others in the name of confirmations, and the greater proportion of them subsequent to the release from the duke to the proprietors of East Jersey, in 1682.

There was soon a controversy between New York and New Jersey, concerning the northern boundaries of the latter, or the points or stations, the western and eastern terminations of it on the Delaware and the Hudson respectively. When it began, cannot now perhaps, as to any precise period, be ascertained, but as early as the year 1700, the Assembly of New York, in an address to Governor, Lord Bellomont, mention "That differences had arisen between the county of Orange, in this province, and the province of East Jersey, and they therefore pray him to take into consideration the settling the bounds between the two provinces." It was, at last, in consequence of mutual acts, by the respective legislatures, submitted to the Commissioners, to be appointed by the crown. The appointment took place accordingly, and the commissioners having assembled and heard the parties, they, on the 7th of October 1769, decreed, "That the boundary or partition line, between the colonies of New York and New Jersey, should be a direct line from the fork or branch, formed by the junction of the stream or waters called the Mahackamack, with the river called Delaware, or Fishkill, in the latitude or forty one degrees, twenty one minutes and thirty seven seconds, as found by the surveyors appointed by the said commissioners to a *rock* on the West side of the Hudson's river, marked by the said surveyors, in the latitude or forty one degrees, being seventy nine chains, and twenty seven links to the southward, or a meridian, from Sneyder's house, formerly Corbett's." Both parties being dissatisfied with the decree, as it related to the point or station on the Delaware, appealed to the King in Council, pursuant to a right reserved in the acts of submission; but in the course of two years thereafter, they concluded to relinquish their appeals, and by like mutual acts to adopt and confirm "the line so decreed by the commissioners, and declaring that it was and should be the boundary or partition line, between the two colonies, and providing for the appointment of Commissioners on the part of each, to join in ascertaining and marking it, so that it might be sufficiently known and distinguished, and the commissioners were directed and required to mark the beforementioned rock, on the West side of Hudson's river, with a straight line throughout its surface, passing through the place marked by the surveyors, with the following words and figures, to wit: *Latitude 41, North*, and on the south side thereof, the words, *New Jersey*, and on the North side thereof, the words, *New York*; and to mark every tree that might stand in the said line, with five notches and a blaze on the north-west and south east sides thereof, and to put up stone monuments, at one mile distance from each other, along the said line, and to number such monuments with the number of miles the same should be from the beforementioned *rock* on the West-side of Hudson's river, and mark the words, *New Jersey*, on the south, and the words, *New York*, on the north side of every the said monuments."

On the 20th April, 1795, the Common Council of New York passed the following ordinances or by-law, and order: "It being represented to the board, that certain persons had set up fuycks, fences, in the river below low water mark, on the south side of Paulus' hook, on the Jersey shore, to the obstruction of drawing seines for the taking of fish; whereupon the following ordinance was passed by the board:

"A Law to prevent the setting of fences, or other obstructions, in the rivers within the limits and jurisdiction of the City of New York.

"Be it ordained, by the mayor, alderman, and commonalty of the city of New York, in Common Council convened, and it is hereby ordained by the authority of the same, that no person shall set or place any fence, or stake, or any other thing whatsoever, in every part of the rivers or bays within the limits and jurisdiction of the said city, by which the navigation of the said Rivers or bays, or the casting or drawing of seines or nets, for the taking of fish, may be interrupted or obstructed: and if any person shall or do set or place any fence, or stake, or any other thing whatsoever, in any part of the said rivers or bays, contrary to this law, such person shall, on conviction, forfeit and pay as a fine for each offence, the sum of Eight pounds.

"And further, that it shall be lawful for any person to take up and remove any such fence or stake, or other thing, which may at any time be found, set or placed, contrary to this law as aforesaid.

"Ordered that William Sloo, who is employed by this board to take fish for the use of the almshouse and Bridewell, do cause to be taken up and removed all such fences or stakes or other things, as may or shall be set in the river, in the manner aforesaid, and which may or shall obstruct or interrupt him in casting or drawing his seine as aforesaid."

We have been informed, so as to be fully satisfied of the fact, that the fences and stakes were instantaneously removed by the persons by whom they were placed, and who at the same time disavowed an intention to obstruct the fishery.

We are, &c

Ezra L'Hommedieu,
Samuel Jones,
Egbert Benson,
Joseph C. Yates.

To Aaron Ogden, William S. Pennington, James Parker, Lewis Condict, Alexander C. McWhorter Esquires.

September 28, 1807.

OBSERVATIONS UPON THE QUESTION BY THE COMMISSIONERS OF NEW JERSEY.

Whether by the grant of the Duke of York, of the 24th June, 1664, to Berkley and Carteret, the right of the grantees was limited to high water on the Hudson river, or extended to the centre of that river, usually termed the *flum aquae*?

Charles the second, by his deed, dated 12th March, 1663/4, granted to the Duke of York the Hudson river, in terms, by these words, "Together also with the said River called Hudson's River."

The Duke afterwards, by his deed of release, dated 24th June, 1664, granted to Berkley and Carteret, "All that tract of land adjacent to New England, and lying and being to the Westward of Long Island and Manhattan island, and bounded on the East part by the main sea and part by Hudson's river, and hath upon the West Delaware bay or river. And Also, all rivers, mines, minerals, woods, fishings, hawkings, hunting and fowling, and all other royalties, profits, commodities and hereditaments, whatsoever, to the said lands and premises belonging or in any wise appertaining, with their and every of their appurtenances, in as full and ample a manner as the same is granted to the said Duke of York."

The idea, that the right of the Duke's grantees is limited to high water mark upon the Hudson arises from considering the river, as a public one, in which the tide ebbs and flows, and of course at the time of the Duke's grant, the soil and the water over it, below high water mark, at the common law belonging to the King, and has not at any time subsequent passed out of him, to any individual and of course the state or public body that acquired the King's right, became entitled to the whole of this river, or else that the river passed to the duke by the King's grant, but did not pass by the dukes grant, to Berkley and Carteret, is not being granted to them in terms, and was carried of course by him to the crown upon his acquiring it.

If the king had power to grant the river, it is presumed no person will doubt but that it passed by the grant to the duke. That he had such power at the common law, satisfactorily appears from Mr. Hargrave's law tracts, page 17. The Hudson then ceased to be a royal river, on the 12th March, 1664, and became the private property of a subject. By this transaction it is supposed it became subject to the law that regulates inland or private rivers, and lost the prerogatives which regulated the right to it, while it was the property of the crown.

By the federal law, all navigable rivers were computed among the regalia. From this source, and from certain political considerations, the same principle passed into the common law. And it being once established, that a navigable river belonged to the King by his prerogative, all his grants, respecting such river, were subject, of course, to the construction peculiar to royal grants. If, therefore, the king owned the soil adjacent to a navigable river, and granted it to a subject, binding him upon the river, the grantee would be limited by high water mark, the grant being construed most favorably to the king, and nothing by intendment being taken against him. The owners of the soil adjacent to navigable rivers, are, therefore, *prima facie*, not owners of any part of the river, and if they claim title to the river, it must be strictly shown by a grant from the king in express terms, or by proscription. It is well known that the law in respect to fresh rivers or private rivers as they are frequently termed, is directly otherwise, and that such rivers of common right belong to the owners of the

soil adjacent, and that this ownership *prima facie*, in all cases, extends *usque and flum aquae*, which arises from the construction of the grant of the adjacent soil, binding the grantee upon the river; all such grants by construction, carrying the right of the grantee, *usque ad flum aquae*. This construction of law, so favorable to royal property, is one of the prerogatives of the crown, and never adheres to any description of property, except in some special cases of tenure by knight service, when such property ceases to be royal. It follows then conclusively, that if the soil adjacent to a navigable river, together with the river itself, became vested in a subject, and such a subject make a grant of the adjacent soil, binding the grantee upon the river generally without restriction, that such grant must receive the same construction, as is incident to every grant of soil adjacent to a private river; otherwise that quality of the property, which springs from prerogative only, would adhere to it, after it passed into the hands of the subject, which, according to all the cases, can never be. The true doctrine then is, that at the common law, when a navigable river becomes vested in a subject, it *ipso facto* becomes a private river, and all the law regulating the rights to private rivers, necessarily attached to it, subject however to the *juspublicum* hereafter spoken of. In the great case of the river Severn, the lord Barclay prescribed for the river, *usque flum aquae*, as parcel of the manor of Barclay, and proved his prescription. Suppose he had granted the manor binding upon the river in the usual form, it is presumed no one could doubt but the whole manor between high water mark and the *flum aquae* remained in the grantor, could only be entertained for a moment, upon the supposition that the binding by the river in terms limited the grant to the margin. But when it be considered that if the boundary be carried to the *flum aquae*, the binding is equally by the river, the whole resolves into a question of construction, which in the case of all private grants, being most unfavorable to the grantor, at once extinguishes the idea of the aforesaid section of the manor remaining in him after such grant.

Every navigable river, thus made private by the grant of the king, like the river Severn, is still subject, as is said of that river, to two distinct rights.

1st. The right of government over it which the supreme power of the nation necessarily retains, in reference to the safety of the nation and to the customs.

2nd. The *juspublicum*, as it is termed by Lord Hale, or the public interest that the people have of passage and repassage with their goods by water. For, as that great judge says, speaking of a navigable river granted to a subject, "the people must not be obstructed by nuisances, or impeached by exactions. For the *jusprivatum* of the owner or proprietor is charged with, and subject to, that *juspublicum* which belongs to the king's subjects as the soil of a highway is, which though in point of property it may be a private man's freehold, yet it is charged with a public interest of the people, which may not be prejudiced or damnified." It may not be amiss to remark further, that if Judge Tucker's opinion, as expressed in his *Blackstone*, be true, that prerogative rights in this country, ceased at the revolution, it seems necessarily to follow, that the law applicable to the rights of private rivers became common to public or navigable waters also; and that peculiar right or prerogative inherent in the crown, which occasioned the distinction in law in respect to these two kinds of rivers being extinguished, no distinction in the law as to such description of waters remained. It is presumed therefore, at this day, that the rights of individuals, as relative to public and private rivers, are precisely the same, all however subject to the two descriptions of rights before particularized, viz. the superintending right of the government for the purposes of public safety and revenue, and the *juspublicum*. This statement and consideration of the law, accords with the practice and usage, and with common understanding, it is believed, of all the people of the United States.

It was no doubt under this view of the subject, that the enlightened commentator on the laws of Connecticut lays down the law to be, that all rivers, that are navigable; all navigable arms of the sea, and the ocean itself, on our coast, may, in a certain sense, be considered as common, for all citizens have a common right to their navigation; but all adjoining proprietors on navigable rivers and the ocean, have a right to the soil covered with water as far as they can occupy it, that is to the channel; and have the exclusive privilege of wharfing and erecting piers on the front of their land. Any person therefore has a right to sail through the waters that cover the land of another, without being liable for a trespass, in the same manner as one may pass through the air which is above the land of another; but no man has a right to do any act in the navigable waters upon the front of another's land which can affect the soil, as wharfing and erecting piers; for in this there is an exclusive property, though

there is not in the water. Nor may adjoining proprietors erect wharves, bridges or dams across navigable rivers, so as to obstruct their navigation. It is presumed Mr. Swift meant that such was the understanding of the common law in Connecticut, and it is believed that such is necessarily the understanding of the common law in every State in the union, since the revolution.

The result of the whole of this doctrine then is, that, upon the strictest principles of the common law, the grant of the Duke to Berkley and Carteret, binding them on the east by the Hudson, carried their right of soil to the *flum aquae* of that river. That no restriction in that grant was intended by the grantee, every one who reads it will readily admit. It conveys in terms all the land lying to the westward of Manhattan Island; if an adherence to express terms of grant is to be so much attended to as is contended, a more plausible argument arises from considering the land under the Hudson as expressly included in these words, and carrying the right of Berkley and Carteret to the eastern margin of the river, then limiting them to the western. And when it is observed, that the grant contains "all rivers" it is presumed, that, instead of any restriction of the property, that was the subject of the grant, being intended, the intent was that it should embrace all property that, by the most liberal construction of the law, could be brought within it. There being then no intent on the part of the grantor to limit the grant within the extent of the construction of law would otherwise give it, if the statement of the law herein contained be correct, the conclusion of the question is inevitable, that the grant to Berkley and Carteret, at the time it was made, carried their boundary on the east of the *flum aquae* of the Hudson river.

Aaron Ogden,
Alex'r C. McWhorter,
William S. Pennington,
Lewis Condit,
James Parker.

To Samuel Jones, Egbert Benson, Ezra L'Homedieu, Joseph C. Yates, &c. Commissioners. September 29th, 1807.

ARGUMENT OF THE NEW JERSEY COMMISSIONERS.

We have hitherto considered this question in the light of a grant from one subject to another, of land laying on the navigable waters. Supposing that we are wrong in the conclusion which we have drawn from this view of the subject, yet the real situation in which we stand presents to the mind a different view of the question.

The Duke of York received from his brother, Charles the Second, a grant of a large tract of land in America, at that time a little better than a wilderness, for the purpose of settlement and improvement, with ample powers of government. The Duke, finding this territory too large for one colonial government, before the country was taken possession of in his name, granted a large district of this country, of nearly two hundred miles in extent, separated from the rest on its eastern boundary by large navigable waters, with like powers of government, to two of his friends, at that time high in the confidence of the king. This grant being made for the sole purpose of enabling the grantees to plant a colony, and improve the country, thereby to benefit, extend and protect the empire, we apprehend that this grant, from the general principles of law arising therefrom, without anything more, being the grant of an independent colony, carried with it a right to the use of the sea, and navigable waters adjoining the same.

Lest it should be said, that we take for granted what is yet to be proved, we will in the first place shew upon what grounds we say that the grant carried with it the powers of government. The state of New York, we apprehend, will not deny that the powers of government were granted to, and vested in the Duke of York, throughout the whole territory conveyed to him. In this grant to Berkley and Carteret the territory is conveyed to them in as full and ample a manner as the same is granted to him; on taking possession of which, the grantees assumed the powers of government under the immediate auspices of the duke and the crown; and in 1682, after a partition had been made between the east and west Jersey proprietors, the duke, in order to confirm the title of the East Jersey proprietors, made a new grant, in which he, in express terms, conveys an authority to the proprietors, "to exercise all necessary government therein, with the same powers, authorities and jurisdiction, government and other matters and things," which he himself derived from the grant to him. Should it be said that the grant of the powers of government from the crown to a

subject is not alienable, yet we apprehend that the assent of the crown would cure that defect; that this assent was given, appears by a proclamation of Charles the second, dated the 13th of June, 1674, wherein he says that, "whereas our right trusty and well beloved counsellor, Sir George Carteret, by grant derived under us, is seized of the province of New Jersey, in America, and of the jurisdiction thereof as proprietor of the same; we do strictly charge and command all persons whatsoever, inhabiting such province, forthwith to yield obedience to the laws and government which are or shall be there established by the said Sir George Carteret."

A similar recognition of the right of government is contained in His Majesty's letter to the deputy Governor of New Jersey, dated the 9th of December, 1672. This right of government, thus granted and confirmed by the duke, and recognized by the crown, was in fact exercised by the proprietors for upwards of thirty years, until it was voluntarily surrendered by them to, and accepted by, the Crown, in the beginning of the reign of Queen Ann, on which it became a royal government, and remained a separate and distinct colony until the Revolution, when it became an independent state. We, therefore, think we are correct when we say, at least for the purpose for which we use it, that the right of government passed with the right of soil to the New Jersey proprietors.

That it could be the intention of the parties concerned, that so extensive a district of country should be separated, from the remainder of the territory, erected into a distinct colony with ample powers of government, the territorial lines of which, nine tenths of its whole distance, being on navigable waters, should be confirmed within its own shores, and so shut out from navigation, the free use of which being essentially necessary to its existence and prosperity, cannot as we apprehend, be easily conceived of, nor for a moment gain credit with any impartial man acquainted with the history and geography of this country. When, however, we look into the grants themselves, we find this right abundantly recognized, and in one of them in express terms provided for. In the original grant of the duke to Berkley and Carteret, we find this strong and impressive language made use of: "And also all rivers, mines, minerals, woods, fishings, hawkings, hunting and fowlings, and all other royalties, profits and commodities, and hereditaments whatsoever, to the said lands and premises belonging, or in any wise appertaining, with their and every of their appurtenances in as full and ample a manner as the same was granted to the said Duke of York." Can it be said with legal propriety that the free use of all navigable waters, washing the shores of an independent colony, is not appertaining to the territory, and among the regalia of the crown expressly granted?

The settlement of New Jersey was fostered and encouraged by the Duke of York and the Crown, for the extension, protection and benefit of the Empire. Can it reasonably be supposed that it was intended to beguile the first settlers there, and their shut them out from the navigable waters adjoining their shores? That if they took any oysters in front of their lands, they were made liable to be dragged before the tribunal of a neighbouring colony as trespassers? We think this circumstance alone is sufficient to shew it could not be the understanding of the parties at the time of the contract. But what puts this question beyond all doubt, is the words of the confirmatory grant by the Duke of York to the East Jersey proprietors, in 1682, before mentioned; this being made to explain the former grants and confirm the title, hath the following additional clause: "As also the free use of all bays, rivers, and waters, leading into and laying between the said premises, or any of them, in the said part of East Jersey for navigation, free trade, fishing or otherwise." Here is a complete recognition of the right of the New Jersey proprietors to the free use of the waters leading into any part of the colony, for fishing, trade &c. In consequence of this grant, thus made and explained, the lords proprietors, grantees under the Duke, acting under his auspices, protected, countenanced, and encouraged by the crown, held out to the adventurers into the colony, in a set of articles of agreement made with them, in the nature of an original constitution of colonial government, called the grants and concessions of the lords proprietors, and dated 1664, among other things, "That the Assembly should have power to create and appoint, such and so many ports, harbours, creeks, and other places, for the convenient loading and unloading of goods, and merchandise ships, boats, and other vessels; as shall be expedient, with such jurisdiction, privileges and franchises, to such ports, &c belonging, as they shall judge most conducive to the general good of the said plantation or province." It was also agreed, "that the inhabitants of the said province have free passage through, or by, any sea's, bounds, creeks, rivers or rivulets, &c in the said province through, or by which they must necessarily

pass to come from the main ocean to any part of the said province." And to induce adventurers, the lords proprietors published in England an account of the situation of the colony, showing its advantages and among other things, say, "that for the navigation, it hath these advantages, not only to be situated along the navigable parts of Hudson river, but his fifty miles on the main sea," &c And again, "it being considerably peopled, and situate on the coast with convenient harbours, proper for such as incline to fishery, the whole coast and very harbour's mouth being fit for it."

We are aware that the Acts of the Lords proprietors, and the encouragements held out by them to the first settlers, are not legally binding on any other than themselves and representatives; but we apprehend that all this being done under the eye of the Duke, and within the hearing of the king, by the friends and favorites of each, is strong evidence of the understanding of the parties at the time of the contract, and we apprehend that contemporaneous expositions are weighty in law. On this head we will further observe, that at the time that the proprietors were about to surrender to the crown the right of government, in the latter part of the reign of king William, they stipulated, among other things, "that they should be entitled to wrecks and royal fish that should be forfeited, found or taken, within East Jersey, or by the inhabitants thereof, within the seas adjacent, to remain to the proprietors with all other privileges and advantages, as amply as in the grant and confirmation to them of the 14th of March, 1682," that is the confirmatory grant of the duke of York, before mentioned; to which the lords commissioners of trade and plantations made answer, "that right arising to the proprietors from the sea's adjacent cannot be well circumscribed; and that the grant of 1682, ought to be well considered, and such particulars therein as are proper, may be allowed of," that is as apprehend, such things as did not concern the rights of government, which were about to be surrendered; all this, added to the reasonableness and propriety of the thing, must, we think, force irresistibly upon the mind a conviction that the king, the Duke of York, and all parties concerned in the transaction, understood that the inhabitants of New Jersey, as a separate, independent colony, was to have the free use of Hudson river, and all navigable waters washing their shores, with convenient access to the sea, comprehending in which the right of erecting and establishing docks, wharfs, piers and ports, anywhere, on or adjacent to their own shores.

When we speak of a separate and independent colony, we would be understood to mean, separate and independent of any other colony, but not of the crown. This, therefore, being the intention of the grant; the nature of the transaction and understanding of all parties concerned in interest, and, as we apprehend, according to the general principles of law arising on the subject, the practice hath corresponded therewith ever since: for we think we may with perfect correctness state, that as far back as the memory of man extends, or any other evidence adduced, to the present hour, the inhabitants of New Jersey have used and uninterruptedly exercised the right of erecting and establishing docks, wharves, piers, ferries and fishing weirs, in front of their lands, adjoining Hudson river, and all other navigable waters, and have uninterruptedly used the waters of the Hudson river, and the sea adjoining and contiguous to the shores, for the purpose of navigation, trade, fishing, &c. in the same manner as any other American colony did use, occupy, and enjoy their own shores, and the navigable waters adjoining and contiguous to them.

Independent of any grant, pact, stipulation, or agreement, we are, from the nature of the transaction, led to consider, that in settling and colonizing the wilderness of America, every district of Country, erected into a distant, separate colony, with the powers of government, either royal or proprietary, became entitled to the use of the navigable waters by which they are bounded, as part of the territory and domain of the colony, subject however to the general jurisdiction of the crown, made for the purposes of trade, revenue and defence, that the several colonies in respect to their relative rights, in the situation of independent territories. Being then in possession of these rights, as we apprehend, by express grant, by the understanding of all parties concerned, at the time of the grant, and the general principles of law in respect to the same, and having ever since actually exercised and uninterruptedly enjoyed them, we were at a loss to conjecture on what ground or foundation the state of New York could build up a claim adverse to them. We apprehended that there existed some grant unknown to us, with a date anterior to the settlement of the country, and transcending all our rights; but on the most diligent enquiry we have not been able to discover a syllable in writing or in print on the subject, unless the charter of governor Montgomery, in 1730, sixty years after the settlement

of the country, and the vesting of our rights, can be considered as such. The charter of Governor Dongan in 1688, in the reign of James the second, who was formerly Duke of York, and proprietor of the province, expressly limits the jurisdiction of the city corporation to low water mark, on their own shore; and, thus circumscribed, remained until the year 1730, in the reign of George the second, when Governor Montgomery, desirous of encouraging the commercial city of New York, by endowing it with large and extensive territory and jurisdiction, renewed the ancient charters, and extended the jurisdiction of the city corporation, in the first place to Long Island, and from thence across the river, taking in the small Islands in the same, when, with cautious circumspection, he approaches the Jersey shore in the following manner: "to low water mark on the west side of the North river, or so far as the limits of our said province extend there, and so to run up along the west side of said river at low water mark, or along the limits of our said province, until, &c." Whether it is intended to set up this charter of Montgomery, as an evidence of the line of the province of New York. extending to the Jersey Shore, we know not; we think that it evidences the contrary: for if the line of the colony at that time extended to low water mark, on the Jersey shore, governor Montgomery would never have set it afloat by the equivocal language made use of in his charter. The utmost that can be said of this charter is, that it extends the jurisdiction of the corporation of the city of New York, as far as the limits of the colony west.

The province of New York was not enlarged by this charter, nor is it any evidence of the colonial line. It says no more than this, if the line of the province extends to low water mark on the Jersey shore, then, and in that case, the jurisdiction of the corporation shall extend there also; and if not, then to the line where it may be. If, instead of low water mark, it had said to Arthur Kull bay and Hackensack river, it would have been precisely the same thing; the question, where is the line of the province, would have been wholly untouched and undetermined by it. The Charter of Montgomery we think proves conclusively, that in 1730, sixty six years after the grant of the duke and the settlement of New Jersey, there had been no grant, deed, or charter, or other instrument of writing made to the province of New York, or any inhabitant thereof, designating the low water mark, on the western shore of the Hudson river, as the western line of the province.

We understand that the state of New York entertains an idea that the colonial government of New York was placed in the shoes of the Duke of York, and became his representative: when this notion took its rise, or on what evidence its legal existence was grounded, is wholly inconceivable to us. In an opinion delivered by Mr. Richard Harrison, at the request of the Corporation of the City of New York, in May 1804, Mr. Harrison says: "That it is well known that so much of the land between Connecticut river and Delaware bay, as passed by the grant of the Duke of York, and was not conveyed to the proprietors of New Jersey, reverted to the crown upon the accession of James the second." The colony of New York must then not only have been the representative of the duke, but also of the crown; we look upon all this imaginary. But supposing it was real, and we were contending with the representatives of the duke and the crown, the representatives must surely be bound by the acts of their principal, viz. the grants of the Duke of York, afterwards confirmed, and explained, and recognized by the crown.

The facts are simple and capable of being drawn within a small compass. The right of soil and government being in the duke of York, he formed a tract of land, lying westward of Long Island and Manhattan Island, into one colony; and another tract of land, lying on the east of the Hudson river, and including a northern district of country, into another colony: the two colonies built docks, wharves, and piers, and erect ferries, fishing weirs, on or contiguous to each of their own shores at pleasure, and used and occupied and enjoyed the river in common. The only difference between the two Colonies in this respect is, that New Jersey has a written authority for what they do, and New York has none. That New Jersey should be placed in a worse situation, with a written, than New York without a written title, is, to us, matter of surprise. We should think that a claim so derogatory to the rights of an independent state, and humiliating to the feelings of a free people, should have for its basis a more solid foundation than anything which has yet appeared to us.

We can perceive nothing, either in the original formation or progress of the colonial governments that should give one colony superiority over the other, in respect to their respective shores, and the use of the navigable waters adjoining the same, or to the jurisdiction over them. If the colony of New York derived any advantages

from being a royal government, which is a matter we cannot easily conceive of, yet the Colony of New Jersey, in the commencement of the last century, became a royal government also, and continued so until the revolution, and in that respect was on equal ground with the colony of New York.

Aaron Ogden,
Alexr. C. McWhorter,
William S. Pennington,
James Parker

September 30th, 1807.

NEW YORK ANSWERS THE ARGUMENT OF NEW JERSEY.

Gentlemen, In answer to your observations on the question, "Whether by the grant of the duke of York, of the 24th of June 1664, to Berkley and Carteret, the right of the grantees was limited to high water mark on the Hudson river, or extended to the centre of that river, usually termed the *flum aquae*?" it is requisite for us to attend only to one principle stated by you, in its application to the grant from the king to the duke, and the grants from the duke, namely, that at the common law, "When a navigable river becomes vested in a subject, it ipso facto, becomes a private river, and all the law regulating the rights to private rivers necessarily attaches to it." Although, as it will be perceived, we forbear from the examination of this principle, still to guard against presumption from our silence, we think proper to declare, that we do not admit, because we do not discern the law to be, as we conceive you advance it, that where the soil adjacent to a navigable river on both sides of it, together with the river itself, becomes vested in a subject, and such subject makes a grant of a parcel of the adjacent soil on one side of the river, binding the grantee upon the river generally, without restriction, that the right of the grantor to the river, comprehending the water and the land covered with it, and the right of jurisdiction, if he should also happen to have such right, to extend between lines, from whence it is so bound on the river, to the channel, will pass to the grantee.

Supposing, however, that when the case was a *res integra*, or allowing a reasonable time to Berkley and Carteret, after the grant to them, to inform themselves of their rights, it might then have been made a question, as to the rules by which the grants of the duke were to be construed, we say that there having been a contemporaneous exposition, and a usage in practice in conformity with it, for a period little short of a century and an half, every such question must now be precluded.

The grant from the king to the duke, besides passing an estate in the territory, further grants certain rights of jurisdiction or government, and which, as to be discriminated or abstracted from his estate or interest in the territory, comprehending the rivers within it, we shall denominate his right of jurisdiction, his grants were to receive the like construction as if they had been immediately from the sovereign without the intervening grant to him, and in that sense, and in reference to that construction of his grants, he was, as between him and his grantees, to be considered as sovereign, and so the law has always been received in New York, and accordingly every grantee has been declared to have sued out his grant at his peril; and, as a consequence, if he deceived the duke in his suggestions for it, the grant was void. And, further, the grants, to the corporation of New York, for the land between high and low water mark, mentioned in the statement we have delivered to you, and the grants which are still constantly made by the commissioners of the land office, under the authority of the state, for the soil below high water mark, where it had not, prior to the American revolution, been expressly granted either by the duke before or after his accession, or by his successors to the crown after his abdication, all rest on the ground, that when the grant for the adjacent land was bounded generally upon the river, nothing passed below high water mark, or, in fine, that the grants by the duke, as it regarded the rules by which they were to be construed, were to be deemed royal grants.

Whether the law has been held in New Jersey, that where the proprietors, prior to the mode afterwards observed of appropriating lands by warrants, from the council of proprietors to the surveyor general, made a grant of land adjacent to a navigable river, so within the fances terra of territory granted to them, as unquestionable to pass with it, and binding the land generally on the river, the grantee, as between him and the proprietors, was, in virtue of the grant for the land, also entitled to the river as far as the channel, we are not informed; but suppose the law so to have been held,

and consequently that, as stated by us, it is to be deemed the mere *lex loci* of New York, and as such not affecting the rights of New Jersey, still we trust that you will be sensible, that it having now become, as it were a fundamental in our State, it would be highly unadvised in us to depart from it; not only so, but we have a perfectly satisfactory conviction there was sufficient warrant, and founded in the law of England, as to be applied to the case, or colony state, to assume or adopt it in the first instance, and that it has been wise to persist in it.

We remain, with due respect, Your obedient servants,

Ezra L'Homedieu,
Samuel Jones,
Egbert Benson,
Joseph C. Yates.

To Aaron Ogden, William S. Pennington, James Parker, Levi Condict, Alex. C. McWhorter, Esquires.

September 30, 1807.

NEW JERSEY REFUSES TO YIELD HER PREROGATIVES.

Gentlemen: If the commissioners, on the part of New York and on the part of New Jersey, should ultimately disagree upon the construction of the several grants of the duke of York, still it is hoped, that the following considerations which are wholly distinct from those heretofore submitted, may prove sufficient to produce an agreement:

That the jurisdiction of New Jersey must be co-extensive with its natural territories, as understood by the laws of nature and nations.

The following may illustrate and prove the foregoing propositions:

1st. New Jersey possesses the rights of a free, sovereign and independent state, as freely and completely as any nation on the globe, except so far as she may have delegated rights to the general government of the United States; that in virtue of her sovereignty or empire (unless some limitation can be shown) she has jurisdiction over all the territories, which, by natural law, belong to it, and a perfect right to all powers within such territories, that are necessary for her safety and preservation.

2nd. That when two nations border, each on a navigable river, (unless some reason of preference can be shewn) or where the respective claims are doubtful, the jurisdiction of each extends to the middle of that river.

3rd. That the coasts of the sea, the shores, the bays and harbors, belong to the Jurisdiction of the adjoining country; that they are, as it were, the gates and inlets to such country, and necessary for its safety and commerce, and consequently a part of the country, and manifestly within its territories, and under the empire of the government established therein.

4th. That the empire of a country and the property in its soil are not inseparable in their nature, even in regard to sovereign states. And nothing prevents the possibility of property belonging to a nation in places, not under its obedience, in which cases they possess them in manner of individuals.

5th. That if the foregoing positions be true, it will not follow that the jurisdiction of our shores and harbors belong to the State of New York, although the property should belong to any individual or corporation within the state, or even to the state itself.

6th. That the king of Great Britain possessed, not only the property in all navigable rivers, but by his prerogative, he claimed and exercised, among his regalia, jurisdiction over them, and over all shores below high water mark, and over all ports, and harbours whatever, within his American colonies. It is, therefore, evident, that if the grant to the first settlers of New Jersey had contained any express limitation to high water mark, it would follow, that the property, as well as the jurisdiction over the subject matter, now in controversy, was retained by the duke, and again resulted to the crown, when he became king of England, and would be no more than if the crown had retained originally the property and jurisdiction of a large lake in the centre of New Jersey.

7th. It is believed, that the crown of Great Britain, by the lords commissioners for trade and plantations, exercised the actual jurisdiction in and over all harbors and rivers within her colonies, independent of any colonial assemblies; in which case, when the independence of New Jersey was acknowledged, the king of Great Britain impliedly yielded to her all the jurisdiction, generally, which he had before

exercised in and over the natural territories belonging to the country called New Jersey.

8th. That New Jersey having, as before mentioned, on her various sides many valuable bays, harbors, and ports, naturally forming a part of her territory; and essentially necessary for her safety and the establishment of her commerce, we do not perceive how any principle can be admitted which may abridge her sovereignty over her own shores and the adjoining waters. We are with high respect Gentl. Yours

Aaron Ogden,
William S. Pennington,
Alexr. C. McWhorter,
James Parker.

To Egbert Benson, Saml Jones, Ezra L'Hommedieu, Jos. C. Yates, Commissioners,
Octob. 2, 1807.

NEW JERSEY THROWS IN A FEW COROLLARIES.

Gentlemen, Before a verbal conference, we beg leave to submit for your consideration.

1st. Certain extracts, and an affidavit marked A. B. C. D. E.

2d. That a port has been established at Perth Amboy, ever since the settlement of New Jersey, and that the inhabitants of New Jersey have been always in the constant practice of building Wharves, erecting piers, establishing ferries, and taking fish, any oysters, in the waters adjoining, without any material interruption or question till of late years.

3d. A clause in Smith's History of New Jersey describing Manhattan isle as in Hudsons river.

4th. The duke of York's grant to Berkley and Carteret of New Jersey, of June 1664, binds the territory therein conveyed "on the east part by the main sea, and part by Hudson's river, and hath upon the West Delaware bay or river."

5th. Whether to take Staten Island out of the duke's grant, it must not be shewn that it lies east of the main sea?

6th. Whether this can be shewn in any other way than by proving that the sound, which separates it from the continent and makes it any island, is the main sea?

7th. Whether the word main, as connected with sea, must not be presumed in legal construction, to have been introduced into the grants for some purpose, and whether any purpose can be imagined, but the obvious one, of giving a definite meaning to the word sea, and to do away all uncertainty, in the eastern boundary, which might arise from confounding sounds, straits, or arms of the sea, with the sea itself.

8th. Whether the term main sea, has not a precise legal significance which corresponds with the vulgar or common signification of it, and synonymous with ocean: and whether this be not chief justice Hale's idea, in his description of it, when he says, "The part of the sea which lies not within the body of a country is called the main sea or ocean."

9th. The Duke, by his subsequent confirmatory grants of East New Jersey, of 1680 and 1682 declares the Eastern boundary to extend "Eastward and Northward along the sea coasts and the said river, called Hudson's river," &c. Whether the salt meadows which chiefly constitute the margin of the sound, and which is thirty miles from the ocean, can be considered the sea coast which is called for by the grant, and more especially when the confirmatory grants add "and all and every isle, islands" &c could the duke, or any other person, conceive that the legal title to Staten Island still remain in him.

10th. Whether, if the grants of the duke are to be circumscribed within the litters, there could have been any islands meant to be conveyed thereby.

11th. Whether the duke must not be presumed to have granted under legal advisement; and whether, according to the most approved rules of construction, his words ought not to be taken in the strongest and most large sense against him, so as not only to import as much as they do in common use, but also to include that signification which is known and received among lawyers. See Ruffendorf, lib. 5 ch. 12 and whether the words main sea, under the above idea, does not mean more than the word sea, mentioned in the grant of Nicholls to the Elizabeth-Town people, as laying between Staten island and the main land.

12th. The proprietors of East New Jersey had great controversy with their first settlers, and on that account could have no wish to have the weight of the crown

thrown into the scale against them, by having a controversy with the Royal governor respecting Staten island, especially with the arbitrary and tyrannical governor Andros, who showed at the same time his power and his want of justice, by his actually imprisoning governor Carteret, of New Jersey, for the bare assertion of his lawful authority in parts of New Jersey not in controversy. The above is submitted as a reason why the proprietors of New Jersey did not assert their jurisdiction over Staten island further than is referred to in the extracts submitted.

13th. That an Indian title has never been considered any objection against one regularly deduced from the crown; besides the purchase of governor Lovelace from the Indians, for the Duke was in 1670, and anterior to the several grants of 1674, 1680 and 1682, by which all the rights he had at those times must have passed.

14th. That if a grant be restricted by actual length of chain, or a natural land mark on the margin of a river, nothing can be presumed to have been conveyed further, and as far as we have had opportunity to inspect the several grants and patents, which have been shewn to us, they all appear to be capable of being reconciled on this principle to the common law construction of deeds that we have heretofore submitted, except perhaps in the grants to some towns, which seem to be grants of jurisdiction, as to corporations over lands which have been previously, or might be thereafter, purchased by the settlers.

15th. That the Commissioners, who determined the northern boundary of New Jersey, were excluded from settling the eastern boundary. Hence it was that the commissioners marked the rock on the west side of the Hudson's river, with a straight line throughout the surface of the rock, passing through the place marked on the rock by the surveyors, with lat. 41 north, and on the south side of the rock with the words, New Jersey, and on the north side with the words, New York; and hence it is also, that they did not mark the east side of the said rock with the words, New York, if they had decided that to be the eastern boundary.

16th. Further observations on the construction of the several grants of the duke, independent of the common law construction heretofore submitted—which paper is marked No. 2. We are, Gentlemen, Your obedient servants

Aaron Ogden,
Alexr. McWhorter,
William S. Pennington,
James Parker.

To Ezra L'Homedieu, Samuel Jones, Egbert Benson, Joseph C. Yates, Esquires.
Commissioners &c.

"A."

By the Honorable Philip Carteret Esqr., governor of the province of East, New Jersey, under the right honble. the lady Elizabeth Carteret, sole executrix to the right honble. Sir. George Carteret, kn't & bar't, deceased, late lord proprietor of this province and his councill,

To the honble the governor or Commander in Chief of all his royal highness' territories in America, at New York, and his councill there.

WHEREAS I have an order to lay claim to Staten island, as properly and justly belonging to the lord proprietor, his government and jurisdiction of the province, and doth appear by his royall highness' grant, under his hand and seale, bearing date the 10th day of [?] 1680. Wherefore, these are in the lord proprietor's name, and by virtue of the said grant, to demand of you the surrender of the said island unto me, with the quiet possession thereof; and that yourselves or any other persons, by your authority doe forbear the exercising any command, authority or jurisdiction within the said island, in which I do expect your speedy answer and compliance. Given under my hand and seale, the 22nd July 1681.

Ph. Carteret.

The Letter to Capt. Anth. Brookholst, }
deputy Govern. and commander in Chief } Sir:
of New York, Government. }

According to my order, I have sent to Mr. La Prairie and Mr. Bollen to demand the surrender of Staten island into my possession and government, as of right belonging unto Sir George Carteret, lord proprietor of this province, as you may see by your copy of his royal highness grant

sent you by them, concerning which pray let me have your speedy resolution and answer. Your humble Servant

Ph. Carteret.

Book A., page 2 } Directions and instructions to James Bollen, Esqrr. Secretary of
March 28, 1681. } our province of East New Jersey, from Lady Elizabeth Carteret.
"You are to lay claim to Statten island, as belonging to us, according to his Royal
Highnesses grant, and also the farme at Horsemus, and to take it into possession for
my use."

Articles (by Philip Carteret) to John Ogden, Servt. and others, undertaking a fishing
trade, and also the taking and preserving of whales and such like great fish &c. "Imp."
I doe give and grant unto the aforementioned John Ogden, Caleb Carwithy, Jacob Molleins,
William Johnson and Jeffrey Jones and company, and to all and every of them, free
leave and liberty to take or kill any whale, whales, or such like great fish in any place
or places where they may be found or taken, whether at sea or in any creek, or Cove,
between Barnegate and the Easternmost parts of this province, without any exception
of drifts or wrecks.

"2nd. That the said persons and company shall have free liberty to bring on shore,
at any convenient place or places within the bounds and limits before mentioned, all
such whales or great fish as they shall find, kill or take, and to erect huts or cabins
on any person's land by the water side, upon occasion, for their better preservation of
the said whales or great fish, and trying them for the making of oil, or curing other
fish they shall take: Provided they do not trespass upon Cornfields, nor do damage to
the Stock or Cattle of any such persons, upon whose grounds they shall come."

3rdly. Extends the limits of the charter to three years.

4thly. That, for the encouragement of the said persons and company in the prosecu-
tion of this design, I doe promise and grant unto them, in case Statten Island falls
within this government, some convenient place or tract of land upon the said Island,
near unto the water side, fit for the settlement of a town or societie, to consist of
twenty four families; and that they shall have a competent proportion of land allotted
to each family, or lott with meadow ground, as well as planting land and free com-
monage, upon the island, each family or lott to pay a quit-rent to the lords proprietors'
their heirs or assigns, one bushel of wheat yearly.

Same book page 52 } "License to John Timerson, ferryman between Bergen, Comunipa,
January 18, 1672 } and New York, with rates and conditions, as was formerly granted
to Peter Hirtfeisen.

Same book page 152 } "License to Joseph Huet and others, to take whale &c. within
February 14th, 1681 } the same bounds as was granted in page 22.
Minutes of Board of Proprietors

A. B. page 13.

At a meeting and council of the proprietors & proxies to proprietors of the
province, 15th May, 1685,

Present, the Deputy Governor &c.

Petition from John Palmer, Esqr. to have a pattent for the lands he has had and
taken upon Statten Island, upon consideration thereof, and that it may be of no ill
consequence, but rather of service, in our claime to that Island, it's agreed and ordered,
that the Governor and councill may make a pattent of the ground to him.

Book A page 185 } Patent from the proprietors of East New Jersey, to John Palmer, of
May 26th, 1681 } Statten Island, within the said province, Esqr. "all that his capital
messuage or dwelling house, with the appurtenances, situate, lying and being on the
north side of Statten island aforesaid, within Constable's hook, near the mill creeke
lately erected and built by the said John Palmer, and in the possession of the said
John, or his assigns; and that other parcell of land," &c.

Book C. 2 commissions }
page 1st, August 4th } Charter to the City of Perth Amboy, by Governor Robert
1718. } Hunter, describes the bounds as follows: "Beginning upon

the north side of the Raritan river, by the upper corner of that called Peter Souman's
land, and by the lower corner of that now in the possession of James Moore, of Wood-
bridge; thence extending, on a straight line, as said Moore's land goes, to land now
possessed by one John Veal; thence, continuing upon a direct line to the South west
corner of David Herriots land, and so extending along by said Herriot's land, to the
southwest corner thereof; from thence, extending on a straight line, to the south-
westerly corner of the land lately in the tenure and occupation of John Carhart, formerly
one Henry Lefsendies, and so along the line thereof, easterly, as it goes to the meadow
or marsh on the north side of a gully where water generally runs; thence, extending
on a direct east line, through the marsh and sound, to low water mark on the easterly
side thereof; from thence running down the sound southerly, as far as the southern-
most point of Statten island; from thence, in a direct line, to George Willocks planta-
tion called Rudyard's and joyns by a creek to that plantation of late belonging to
Andrew Bowne, deceased; thence, extending along the lines of said Bowne's land,
excluding the same to Matewan Creek; thence up the creek, to a bridge thereon, where
the highway from Amboy ferry to Freehold and Middletown crosseth the same; thence,
extending along the partition line betwixt the counties of Middlesex and Monmouth, to
Milstonbrook; thence down the said brook, to the post road; thence, along the same,
to South river, as it goes to Raritan river, and so down Raritan river (including the
said river) to high water mark on the north side thereof, to where the limits of the
said town is said to begin."

Book C. 3 page 224 } License from Governor Cosby to Archibald Kennedy, of New York,
January 7th 1773 } to settle a ferry in the County of Bergen, in the province of East
New Jersey, to carry passengers from thence to New York, and from New York
thither.

The foregoing are true extracts from the records of the proprietors of East New Jersey, in their office, at Perth Amboy.

Septe'ber 10th, 1807.

James Parker, Regr.

"C."

Elisha Parker's warrant for 199⁴⁷ acres W. 2. 16. } These do certify that Elisha
Archibald Kennedy's 10 acres A.B. 2 fo. 226.10 } Parker duly deputed and sword,
acres in full to Archb. Kennedy. } to the intent hereafter mentioned, did survey for Archibald Kennedy, Esqr., a certain Island situate in Hudson's river, in the County of Bergen, and eastern division of the province of New Jersey, called and known by the name of Bedlow's Island, beginning at a stake standing one chain and sixteen links distant upon a south thirty two degrees and a half east course from a small cedar tree, growing out of the side of a bank on the south easterly side of the said island, and from the said stake running west four chains and five links, then north forty eight degrees and one half, west five chains and five links, then north forty eight degrees and one half, west five chains and five links, then north twenty six degrees, west three chains and five links, then north three degrees and a half, west seven chains and three links, then north four degrees, east one chain and seven links, then south eighty two degrees, east six chains and sixty seven links, thence south forty seven degrees and a half, east four chains and fifty five links, then south fifteen degrees and a half, east four chains and fifty five links, then south fifteen degrees and a half, west four chains and five links, then south fourteen degrees and a half, west six chains and forty links, to the beginning (at one chain and ten links of the last course, the house bore north seventy degrees, west at one chain and twenty one links distant) containing eleven acres and forty two hundredths of an acre, strict measure, which after allowance, is to remain for ten acres and nine tenths of an acre, to which the said Archibald Kennedy is entitled, by virtue of a deed to him from Elisha Parker, for the said quantity of ten acres and nine-tenths of an acre of land unappropriated, dated the eighteenth day of February, 1746,7, and recorded in Lib. A. 73.2 f. 226 to grant which the said Elisha had right in part of his warrant from the Council of proprietors of the eastern division of New Jersey, aforesaid, for 199 47/ acres of land, dated the 21st May, 1744 and recorded in lib. W. 2 f. 16. Witness my hand, this nineteenth day of February, 1746.

James Alexander, Surveyor General.

The foregoing is a true copy from book S. 2. page 169, in the office of the proprietors of East New Jersey, at Perth Amboy.

September 10th, 1807.

James Parker, Register.

"E."

AFFIDAVIT OF CORNELIUS VAN VORST IN REGARD TO HUDSON RIVER FERRIES.

Bergen County SS:

Cornelius Van vorst, of Ahasemus, in the County of Bergen, being duly sworn, deposeth and saith, that he is now in his Seventy ninth year of his age; that he was born where he now lives, and has resided at Ahasemus ever since his birth; that this deponent has been acquainted with the shore on the west side of the Hudson river, and what is now called New York bay, ever since he was a boy; that this deponent has known that the inhabitants of the Town of Bergen have uniformly exercised the right of Oystering and fishing in the Hudson river and bay aforesaid, ever since his recollection; and that the inhabitants of Bergen have also exercised the right of setting fuykes upon the flats, and of increasing their extension from the shore into the river or bay, from year to year and that this deponent has also set fuyke fences, oystered and fished in the said river and bay, and upon the said flats; and this deponent further saith, that he never knew of any of the people of New York exercise the right of setting fuyke fences upon the flats, or on the west side of Hudson's river or bay, aforesaid, within the limits aforesaid, excepting one person about two years ago, who this deponent understood had set a fuyke fence between the two islands, but of this, this deponent hath no certain knowledge. And this deponent further saith/, that when he was a boy, he understood from the old inhabitants of Bergen, that it had been the practice at the town meetings of the corporation of Bergen, they appointed certain officers whom they called water bailiffs, whose particular duty it was to apprehend offenders upon the waters within the said township, which were considered to include those from the western shore of Hudson's river, and west of the bay, aforesaid, to the deep waters in said river or bay. That this deponent understood that Jacob Van Horn and Minard Garribrants were two of the persons who held the said office of water bailiff—and that the said bailiffs did frequently apprehend persons belonging to the city of New York, oystering upon the flats, and bring them before the authority then in Bergen. And this deponent further saith, that he never understood that any legal measures were taken, by the persons from New York, thus apprehended, in defence of the right; but this deponent was informed, that after sometime, a number of the people of New York came over, armed with muskets and drove off the said bailiff: And this deponent further saith, the records of the annual proceedings of the corporation of Bergen, of the years of which this deponent now speaks, have been lost or destroyed. And this deponent further saith, that he established the present ferry at Jersey (then Paulus hook) about forty years ago; that he built a dock and ferry stairs, for the accommodation thereof, into Hudson's river beyond low water mark; and that no objections were then made by the people of corporation of New York, for his so doing; that since the first establishment of the ferry aforesaid, he has extended the ferry stairs and dock, further into the Hudson's river, and no objections were then

made by the people or corporation of New York, for his so doing. And this deponent further said, the Weehawk ferry has been established ever since the memory of this deponent; and that the ferry at Hoboken, has been established nearly as long as the ferry at Paulus hook; that the ferry stairs and dock, as well at Weehawk as Hoboken, have for many years been extended beyond low water mark, into the Hudson's river, and that this deponent never heard any objections made thereto, by people or corporation of New York, or any difficulty suggested on Account thereof. And this deponent further saith, that a few years since, how many the deponent cannot now recollect, but since Mr. Verdyne Elsworth first came to live at Paulus hook, a certain William Sloo, as this deponent understood, came over from New York, by direction of the corporation, and cut the nets of some of the people of Bergen, and set them adrift, and went to fishing himself; that the said William Sloo was prosecuted before Daniel Van Ruyper, Esqr. of Bergen, by the persons injured, and judgment obtained for their damages, and execution issued thereon, and the nett taken by virtue thereof and carried into Bergen where it remained a few days, when this deponent understood the said Sloo came over, by order of the corporation, and paid the damages and costs, and took away the nett. And this deponent further saith, that the next season after the before mentioned transaction took place, one alderman and two assistants of the corporation of New York, came over to this deponent, and asked permission to fish for the use of the alms house, which this deponent permitted them to do; since which this deponent does not recollect that any interference has been made, by the corporation or people of New York, with the right of fishing of the people of Bergen, nor have they since requested permission to fish, to this deponents knowledge; but this deponent believes that the people of New York as well as from some parts of Jersey, have practiced oystering upon the flats, and in the Hudson's river, and New York bay. And further this deponent saith not.

Cornelius Van Vorst.

Sworn before me this 26th
Sept. 1807. Philip Williams Noty Pub.

And whereof an act being required, I have granted the same under my notarial form and seal at the town of Jersey, the day and year above written.

Philip Williams, Not. pub.

THE NEW YORK COMMISSIONERS REFUTE CERTAIN STATEMENTS.

Extract from the Duke of York's deed of confirmation to the Twenty four proprietors, dated 14th March 1682.

(Recital)

And whereas upon a petition made, &c. between, &c. did bargain, sell, &c., unto Sir George Carteret, his heirs, and assigns, all those easterly parts &c. of the whole tract &c. extending eastward and northward along the sea coasts and the river called Hudson's river, from the east side of a certain place or harbor, lying on the southerly part of the same tract of land, and commonly called or known in a map of the said tract of land, by the name of Little Egg Harbour, to that part of the said river, which is in forty one degrees of latitude, being the northernmost part of the said tract of land and premises, which is bounded by the said river and crossing over from thence, in a straight line, extending from that part of Hudson's river aforesaid, to the northernmost branch of Delaware river and to the most northerly point or boundary of said entire tract of land, and premises now called North Partition Point, and from thence &c.

"Now these presents witness, &c. his royal highness the duke of York &c. hath granted &c. unto &c. all that part, share &c. by the name of East New Jersey, &c. together with all islands, bays, rivers, waters, forts, minerals, quarries, royalties, franchises and appurtenances whatsoever, &c. "as also the free use of all bays and waters leading into or lying between the premises, or any part of them, in the said parts of East New Jersey, for navigation, free trade, fishing or otherwise."

"And these presents further witness &c. that for the better enabling the said Earl of Perth, &c. their heirs & assigns, to improve and plant the premises with people, and to exercise all necessary government there, &c. hath likewise given, &c. to the said earl of Perth &c. their heirs and assigns, proprietors of East New Jersey &c. all and every such and the same powers, authorities, jurisdictions, governments and other matters whatsoever, which, by the said respective recited Letters patent or either of them, are or were granted, or intended to be granted, to be exercised by his said Royal highness, his heirs, assigns, deputies, officers or agents, in or upon or in relation unto the premises hereby confirmed," &c.

Gentlemen, In answer to the two first questions you have submitted to us, we say, that as the grant from the Duke expresses the Southern boundary, by the main ocean, and the eastern by the main sea, it is to be presumed that these terms, though they frequently have the same, yet as used in the grant, were intended to have, different significations, and which accords with the fact, the bay between Sandyhook and the Narrows, may be denominated sea, but to denominate it ocean, would be a forcible mode of expression which the occasion only might perhaps tolerate.

The waters between New Jersey and the western shore of Staten island is certainly neither river nor Creek, in the strict and most correct use of the terms, but is what its present name properly imports, a sound, which is an arm of the sea, being a passage, and in that sense may be considered as sea; and it appears that the instant the question occurred, whether the appellation of river or sea was to be applied to it, the latter was preferred as the more proper, and the error in the previous Indian deed corrected in the subsequent formal grant by the government accordingly.

Kill van Kull, considered as a continuation of the passage by the sound to the bay between Staten island and Long Island, may also be denominated sea, and at the same time, when considered as the passage between the bay and the Achter Kull, or Buck Kill or bay, now Newark bay, it may be also denominated the Kill, and so the Kill of the Kull. The Dutch word Kill, has been used in this country without any precise or definite meaning, as will be perceived when it is mentioned, that the Mohawk river was called the Maquaas kill; the passage between the Hudson and Haerlaem rivers, round the northern point of Manhattan island, was called Spyt den Duyvel kill, and Newtown creek, an arm of the East river, dividing the Counties of Kings and Queen's on Long Island for some miles, and no stream issuing into it, or passage from it, was called Mispatt kill; so that the sense in which it is to be understood, must always be according to the subject matter. It will, however, be perceived, that Kill van Kull is wholly without the question: for if the boundary is to pass through the sound and not through the Narrows, then it must of course pass down through Kill van Kull, from the mouth of the Hudson; and if the line is to pass through the Narrows, then Kill van Kull and it can have no possible relation to each other; so that either way the enquiry, whether Kill van Kull is to be declared an Arm of the sea, or a river, or a creek is useless.

That the mouth of the Hudson is at its confluence with the East river, we might merely refer to Vander Donck, and to the statement we have delivered, that such has been the common conception in regard to it hitherto; but in addition thereto we conceive ourselves warranted in asserting, that so it exists in nature, though at the same time, we admit, that for legal or artificial purposes, and such as right and justice would require, the river itself might constructively be considered as commencing, not only at the narrows, but even at Sandyhook, the entrance into it from the ocean.

As to the objection that the course of Kill van Kull is East and West, and that the waters of Raritan bay, as you denominate it, extend westerly from Sandy hook, so that the kill would form a southern, and the bay a northern, boundary, we answer, that supposing the ocean to be the southern boundary, then a line from Sandy hook along the shore of Raritan bay, through the sound and Kill van Kull, and up the Hudson to the degree of latitude, we conceive may with propriety be denominated the eastern boundary, notwithstanding deviations of some of the curvatures, or courses and distances, in it from its general northerly and southerly direction.

In answer to the third question, we would mention, that we do not know, neither have we any reason to believe, the distinction you surmise between the grants by the duke before, and those by him after, he came to the crown has ever been obtained; referring therefore, again to the subsequent special grant, which have been, and still continue to be, made for the soil below high water mark, as proof or example, we will only further state, they have all taken place, without discrimination, as it respects the prince or persons from whom the grants for the adjacent upland were obtained, and proceed on one uniform, assumed principle, that the grants for the upland are within the prerogative rule of construction.

We are, Gentlemen &c

L'Hommiedieu, Jones, &c

To Aaron Ogden, & others
Oct. 2, 1807.

NEW YORK SUBMITS A FURTHER STATEMENT IN WRITING.

Gentlemen, We have delivered to you a written answer to your observations on the question relative to the construction of the grant from the Duke of York to Lord Berkeley and Sir George Carteret, and you have submitted certain propositions to illustrate and prove the general proposition, that the jurisdiction of New Jersey must be coextensive with its natural territories, as understood by the laws of nature and nations, accompanied with extracts from a number of persons, which we have perused and considered, and thereupon find ourselves under the necessity of making a further statement in writing, previous to the intended verbal conference between us.

We have already stated in effect, that we conceive the subject of the present reference to be a question of boundary and resolving itself into three questions.

Whether New Jersey is to be restricted to high water mark? Or whether she is to extend to low water mark? Or whether she is to extend to the channel? All depending on the above grant, construed, as if it had been immediately from the king. Hence it will be perceived that we do not conceive the right of New Jersey to use the waters in question, separated from her claim to boundary and jurisdiction, as in controversy. On the contrary, we do not suppose ourselves authorized much less held, to contend for a right in New York to appropriate the use of those waters to her own inhabitants, or, as it is usually expressed citizens, to the exclusion, or in any manner to the prejudice, of the citizens of any other state.

In answer to the suggestion, that, by the grant, the right of government, or as we have expressed it, the right of jurisdiction passed with the soil to the New Jersey proprietors, and the difference thereby occasioned as to the presumed intent of the parties, or in other words, as to the construction of the grant, we would state, that the grant is wholly incompetent in terms to create or convey a right of jurisdiction. It contains no words of grant more operative than are to be found in every other grant

from the duke, and to refer particularly to the grants for the township of Haerlaem, or Manhattan Island, and the township of Brooklyne, the former being bounded, for at least ten miles, on the Hudson, Spyt-den-Duyvel, Haerlaem and East rivers, and the latter, for at least three miles, on the East river, and yet, as to both, the land between high and low water mark was afterwards granted to the corporation of New York. As usual, it contains many words altogether superabundant, and such, as that a perfect estate in the soil or territory, comprehending the rivers within it, would have passed without them, and certainly none of sufficient legal import to pass a right of jurisdiction. But, admitting the grant competent in terms to pass an independent right of jurisdiction, another question still remains: Was it competent for him to pass it as to a parcel of the territory? He doubtless might alien the territory, granted to him, in parcels to others, but it will not thence follow, that, as to the right of jurisdiction granted to him, there was not always to be unity, if we may so express ourselves, even if it should at times be vested in a plurality of natural persons, not analogous in this respect as if it had been granted to a corporation, so that neither he nor his heirs or assigns could pass an independent distinct right of jurisdiction to another over any particular parcel and the general right of jurisdiction originally over the whole territory, thence forward, as to such parcel to cease; and for this obvious reason, that if a distinct right of jurisdiction could be passed as to one parcel, it might as to more, and there not being anything, in the original grant from the king, to limit the number, and the territory or space granted being infinitely divisible, the several and distinct jurisdictions, or governments, or sovereignties, however they may most aptly be termed might be numberless. But further, there not being anything in the original grant restraining the grantee, to whom a right of jurisdiction over a parcel of the territory had passed, to pass to his alienee of a parcel of such parcel, and such second alienee again, on an alienation of a parcel of the parcel alienee to him, also to pass a right of jurisdiction to his alienee, and so on whatever may be the number of the several successive alienations of the respective lesser parcels, ad infinitum, an alienation of the right of jurisdiction as to a parcel would defeat the grant altogether as to the right of jurisdiction intended to be created and granted by it. The partition between the proprietors, it is true, assumes it, that the right of jurisdiction, equally with the territory, was partible, the government over each moiety becoming thereby distinct and independent of the government over the other moiety, and the grant or further assurance from the Duke to Sir George Carteret, the Grandson, of the 10th September, 1680, and under which it would seem, his executrix, the year, thereafter, set up a claim to Staten-island, also assumes it, that on the partition, the proprietors had ceased to hold together as well the right of jurisdiction as the territory or land, and the duke accordingly grants to Sir George, the grandson, and in full and express terms the right of jurisdiction over his purport, which, it was agreed between the parties to the partition, should thereafter be called East New Jersey. We are, however, willing to waive all these questions and are ready to admit, that as soon as the conquest of the country, from the Dutch, came to the knowledge of the proprietors they actually established and exercised a government over the territory granted to them, and as under a right or power contained in the grant from the Duke; that the Government, so established and exercised by them, was recognized by the inhabitants and the government of New York, by the duke, and by the king, and so far was a government de jure or legitimate; but that, in another, and equally just, sense, it was a government de facto only, as founded in mere practice under the grant, and inasmuch as such recognition was of a government certainly not including the Oyster islands and Shooter's island, and there being no matter, either of fact or of law, by which a boundary could be assigned to it, immediate between those islands, and the western shore, the recognition was virtually of government, whose eastern boundary or limit was high water mark.

With respect to the general fact, that New York has already exercised jurisdiction over the waters between the shores of the two states, and the fact that the mouth of the river Hudson was at or near Bedlow's Island, the following particulars, as far as they may be supposed to be in the knowledge of two of us, as that in the course of the discussion, as shall assume them as proved, namely, that from their earliest recollection there has always been a reputation or understanding that the whole of the waters of the river Hudson, and of the bay between Staten island and Long Island, were within the actual jurisdiction of New York; that there was not, however, any precise reputation or understanding, either way, whether such jurisdiction extended to high water mark, or was confined to low water mark, on the shore of New Jersey;

that as to the waters between Staten island and the main, there was no reputation or understanding as to a boundary line of jurisdiction; that the Citizens of New York and New Jersey had a like free and equal common use of the waters in question, to take fish within the same, and for every other purpose; and that, according to the common conception, when a vessel was below Bedlow island, she was said to be in the bay, and when above it, in the North river.

We are Gentlemen, Yours respectfully

Ezra L'Homedieu,
Samuel Jones,
Egbert Benson,
Joseph C. Yates.

To Aaron Ogden, William S. Pennington, James Parker, Lewis Condict, Alexander C. McWhorter, Esqrs. Commissioners &c.

October 2nd, 1807.

NEW JERSEY TENACIOUS OF HER PRIVILEGES.

Gentlemen, Upon reading your first note, handed us this day, it has occurred to us as proper to submit the following considerations:

1st. Whether the general question of boundary between the two states does not involve in it the consideration, whether the high water mark, or the littus, or the eastern side of the Hudson river, be the true and legal line of division, equally with the lines of division stated by you; as you will recollect in our first communication we urge that the duke, having granted to us all the tract of land lying and being to the westward of Long Island and Manhattan Island, gave us ground to contend that the true intent of the grant was to invest us with the soil, or land, under the water of that river, and the grant conveying also all rivers, fortifies this idea. And although it may be said that the subsequent part of the grant binds us by the river, it is still to be recollected, that if the soil under the water passed by a just construction of the deed, no subsequent words in the same deed could defeat this right.

2nd. We are by no means satisfied with the opinion entertained in New York, that the grants of the duke of York are to be considered as Acts of the king, or in other words, royal grants.

3rd. We wish not to be understood that we are contending for the use of the waters lying between the two states, merely as a common high way, which every alien friend would possess equally with us, but that we consider them, at least to the *flum aquae*, as within our jurisdiction, and the lands lying under them as part of the territory and domain of the state.

4th. We apprehend it must have escaped your notice, that the powers of government are conveyed to the East Jersey proprietors in the confirmatory grant, of 1682, in direct and unequivocal terms, as fully as they are granted to the duke, for which we refer you to an extract of that grant accompanying this paper and marked No. 1.

5th. As to the competency of the duke to grant an independent right of jurisdiction, we apprehend that the proclamation of Charles the second, bearing date the 13th June, 1674, and also his letter of 23rd November, 1683, must have escaped your notice, in which this right is not merely implied, but expressly recognized; extracts from which we herewith deliver you, marked 2 and 3.

It may be a question whether at the common law, the power of creating an independent government, could be conveyed even from the king to a subject in divided parts to the other subjects; yet it was done, and subsequently acquiesced in by all parties concerned in interest, viz: the duke and the king, and New Jersey therefore became an independent colony, *de jure*, as you candidly admit. A recognition by the inhabitants and government of New York, was in no wise necessary to make this right legitimate. It was not in this point of view alone, that we mentioned the grant of the powers of government, but to shew that it was the intention of the duke, at the time of the grant, to erect all the territory lying to the Westward of Long Island and Manhattan island, to the 41st degree of North latitude, into a Colony with the accustomed powers of government, and that, therefore, the grant was entitled to a different construction and consideration, as to the navigable waters adjoining the territories contained in it, than if it had been a grant of a small tract of land unaccompanied with such intentions.

6th. We do not admit it to be a fact, as advanced, that New York has ever exercised the exclusive jurisdiction of Hudson's river. Nor do we think that reputation or

common understanding will be sufficient authority to assume that fact. We think we are correct when we say, that the reputation and common understanding in New Jersey, was contrary and repugnant to reputation and common understanding in New York. Besides, West Chester County, we understand previous to the revolution, and we presume is so still, actually bounded on Hudson's river, and as we apprehend, could not in any view of the subject, have jurisdiction beyond the flum aqua. It may be true, that New Jersey while a colony, and since it has become an independent state, hath had but little cause to exercise jurisdiction on Hudson's river, but we apprehend that the quantum or degree of the exercise of a right does not affect the right itself. Whenever New Jersey hath had cause to exercise jurisdiction over the wharves, docks, ferries, fishing weirs, &c. beyond low water mark; and it is a fact, of public notoriety, that a man has been tried and indicted for murder, committed on Hudson's river, as within the body of the county of Bergen.

We are, Gentlemen, Yours respectfully,

Aaron Ogden,
William S. Pennington,
Alex. C. McWhorter,
Lewis Condict,
James Parker

To Egbert Benson, Samuel Jones, Ezra L'Hommiedieu, Joseph C. Yates, Commissioners &c., October 2nd, 1807.

NEW JERSEY'S SOVEREIGNTY INVOLVED.

Gentlemen, Arms of the sea and navigable rivers, are subject to a *jus publicum* or *jus privatum*, and a *jus regium*.

To this last right singly we meant to apply the propositions arising from the sovereignty of New Jersey, as distinct from all other considerations we heretofore had laid before you. We meant expressly to exclude, under this head, all questions of right or title to territory or property, as arising from the duke's grants, and to confine ourselves merely to the *jus regium*.

Under this explanation, we beg you to consider our communication of the 2d instant, in reference to this particular right. If it be true, as heretofore stated, that the crown, exclusively, exercised the *jus regium* (being one of the regalia) in virtue of its prerogative through the agency of the lords commissioners of trade and plantations, independent of parliament, or any colonial assembly, it seems then to follow, that the right exercised by New York, of which you speak, of your own knowledge, before the revolution, must have partaken of the *jus publicum* and *jus privatu*, only, and can have no reference to the *jus regium*, which we presume was never out of the Crown, while her king was our sovereign.

Suffer us here to refer to the many instances of the exercise of the *jus publicum* and *jus privatum* by New Jersey, which we have before enumerated, most of which have been within our actual knowledge and observation.

The king as stated by you, was the sovereign, and a component part of the government of New Jersey, as well as of New York and Great Britain, at the time of the revolution; whence the conclusion appears to be necessary, that the *jus regium*, theretofore, exercised by the king over the shores and adjacent waters of that part of the realm called New Jersey, must have materially devolved upon the sovereignty established in New York.

It is submitted to the gentlemen of New York, under this view of the subject, whether the evidence to which they referred, of the jurisdiction *d facto*, since the revolution, is of such remarkable facts, as can in any way amount to that immemorial usage or prescriptive right, spoken of in public law, and which would oust New Jersey from all kinds of sovereignty and empire, in and over its shores, and adjoining waters, provided she had acquired such sovereignty by the assertion and vindication of her independence.

In respect to the communication we received this morning, we shall only observe, that the terms eastward and northward along the sea coasts and the said river, called Hudson's river, manifestly means but one general course between East and North, according to the fact, as appears by the map, and the common acceptation of the meaning of the terms, eastward and northward, and not two different courses, which would be contrary to the fact and known signification of those terms.

Besides the course from the South partition point in the quinti parti deed for West Jersey, referred to by you, is said to extend, southward, westward and northward, along the sea coasts and Delaware bay and river; whereas, according to your construction of that deed, the first course given would evidently have been westward, and not southward. We are, respectfully yours,

Aaron Ogden,
William S. Pennington,
Alexr. C. McWhorter,
James Parker,
Lewis Condict.

To Ezra L'Hommedieu, Samuel Jones, Egbert Benson, Joseph C. Yates, Commissioners &c., October 5, 1807.

NEW YORK ADVANCES A STRONG ARGUMENT.

Gentlemen: We have attended to the propositions contained in one, and to the questions in the other, of your communications of the 2nd Instant.

The propositions, when considered as in the abstract, and with some explanations or modifications, which we are persuaded you would admit as requisite to render them more definite, probably would not be disputed by us; but we do not perceive how they, or the authorities you cite, can serve as a rule or a law whereby to decide the questions between the two states, which is a question of right or title to territory, comprehending not only the land, but also water, and the land covered with it, and of right or title both to the jurisdiction and the property, and arising on a grant or transfer of jurisdiction and property, made as under the law of England the same law by which a former question of boundary, arising on the same grant, and between the same parties, was decided: We cannot, therefore, consent to resort to the law of nature and nations as a rule of decision. The case however would from necessity be remanded to its proper forum; the law of nature and nations being as you have stated, "that where two nations border each on a navigable river, unless some reason of preference can be shewn, the jurisdiction of each extends to the middle of the river," and the reason of preference alleged by New York, being a better right or title by positive law. But if we were to consent to leave the question to be decided according to the law of nature and nations, and assuming the facts, that New York and New Jersey began to exist as distinct, independent governments or sovereignties at the same instant; that coeval therewith, and for the period we have stated, New York has interruptedly, and without any claim by New Jersey, actually exercised or possessed the jurisdiction over the waters in question; surely the judgment of the law of nature and nations, such possession or prescription would of itself be sufficient, and that peace among civilized nations would accordingly require that New York should be declared to be at peace, as to that portion of her territory. And here we take occasion to repeat, that the fact as to the possession of the jurisdiction, is so in our own knowledge, that it would not be possible to surrender the belief of it, no more than it would be, if we may be tolerated in the expression, a belief arising from the evidence of our senses, whoever might be witnesses, and whatever the number of them, testifying differently, and especially if weak and immediately interested, and, although upright, yet perhaps not sufficiently guarded, or capable to distinguish between their thoughts and their wishes.

The individual act of Mr. Kennedy, in 1746, in purchasing a propriety right, and having Bedlow's Island, which he then held under the New York title, surveyed on it, is certainly not only no proof of an interruption of the possession, but we suspect the transaction may be explained, when it is recollected that he was, at the time, owner of some land at Ahasimus, on the opposite shore of New Jersey, bordering on the river, and it was, therefore, not unnatural for him to reason, as it appears the council of proprietors did on the application of Palmer, for a title also from them, for his estate on Staten Island, "that it would be of no evil consequence, but rather of service to any claim," which he might thereafter be minded to make to the water, or to the soil under it, in front of his land at Ahasimus.

The fact you state, as of public notoriety, "that a man has been indicted and tried for a murder committed on Hudson river, as within the body of the county of Bergen," has never before come to our knowledge. On enquiry, we find, that the question, whether the place was within the jurisdiction of New Jersey was raised, and was expressly reserved; that the trial proceeded, and the prisoner was acquitted, the proof

not being sufficient, and that it was so recent as within the last two years; and further the proceedings were wholly unauthorized even, by the law of New Jersey; for supposing the State to have the jurisdiction below high water mark, and to any distance which may be contended for, no part of such distance or space is within the County of Bergen, its eastern boundary being thus described in the statute, "for dividing and ascertaining the boundaries of the Counties," and passed as early as in 1709-10, "to begin at Constable's hook, and so to run up along the bay and Hudson's river, to the partition point between New Jersey and the province of New York."

In a former communication, we mentioned that Kill van Kull was to be considered as a continuation of the sound, and from the above Statute we have discovered that it has always so been considered, the boundary of the county of Bergen, from where it comes to Pequaneck river, being thus described, "and to run down the said Pequaneck and Passaic river to the sound, and to follow the sound to Constable's hook where it began."

As to the intimation, that the Duke having granted to Lord Berkeley and Sir George Carteret, "all that tract of land lying and being to the Westward of Long Island and Manhattan island, that therefore the high water mark, or littus, on the eastern side of the river Hudson might be considered as the true and legal line of division," and which, if intended in your first communication to us, escaped our notice, we briefly answer, that the grant is expressed in terms in our view, materially different from them as cited by you. It does not grant all the land Westward of Long Island and Manhattan Island, but "all that tract of Land adjacent to New England and lying and being to the Westward of Long Island and Manhattan Island, and bounded &c. The tract intended to be granted, is designated in general terms, as being adjacent to New England and westward of Long Island and Manhattan Island, and finally described by special or definite boundaries. If the designation had finished with the first member of it, adjacent to New England, then perhaps the whole of the territory which the Duke held, except the eastern territory, expressed in the grant to him, to be a part of the main land of New England would have passed. If it had finished with the second member of it, Westward of Long Island and Manhattan island, and if the grant itself would not then have been void for uncertainty, we can suppose the Western shores of Long Island and Manhattan Island, would have been its eastern, and the Eastern shore of the Delaware, its western boundary; but we cannot imagine a rule or principle, by which northern and southern boundaries would have been to be assigned to it. When the description, however, assigns boundaries to it, by special and definite terms, as to be distinguished from, or contrasted with, the preceding general terms, they are to restrain the general terms, and confine them to their function, which was only, an exabundanti, to mention the tract in relation generally to its proximity to New England, and its bearings from Long Island and Manhattan island; so that we conceive that the question, what is the eastern boundary intended in the grant, as far as it may depend on the terms of the description, must wholly depend on the latter or special or definite terms alluded to, and without any reference to the preceding or general terms.

The consideration, that New Jersey is an independent sovereign state, does not, in our view, affect the question between the two States. She was always so as against New York, both de facto and de jure; and on the principle of the American revolution she was always de jure as against Great Britain, with this exception, that the Prince possessing the British crown, for the time being, was her sovereign, entitled to and exercising the like powers and prerogatives as in Great Britain, and of consequence in whom the supreme executive power was vested, and to whom, as possessing especially the feal powers, as they are sometimes termed, the powers of peace and war, the duty of allegiance was due; with whose concurrent agency in her legislature she could raise armies; maintain Navies; regulate commerce and navigation; lay and collect duties on imports and exports and tonnage on vessels; naturalize foreigners, coin monies, and assert and vindicate her rights as to her boundaries, and which she actually did as to her northern boundary; except the last, however, all the rights or powers here enumerated, the indicia of sovereignty, she has, equally with the State of New York, and every other state in the Union, delegated or ceded to the general sovereignty of the United States, and is now perhaps more to be likened to a corporation with certain powers, none more plenary than that of life and death for breaches of her own internal peace, and is in no otherwise independent than as he holds such powers independent of the general sovereignty, but still at the will of the legislatures or conventions of three fourths of the States.

Neither will any supposed change in her condition, by the revolution, vary the case. The parliament or legislature of the mother Country claimed a right to pass laws binding on colonies. The Colonists claimed to be entitled to the like rights with their fellow subjects in Britain, not to be bound by laws to which they did not assent, or in effect to be sovereign, or independent of the parliament. Attempts were made to define the nature or extent of the sovereignty to be enjoyed or retained by the colonies, or to establish a fundamental between the parliament and them, and they to remain members of the empire, thereby to preserve the unity of it, all of which failed, inasmuch as they would only have terminated in the incongruous and futile mode of government, an imperium in imperie, and their being no alternative between and absolute submission to the will of parliament, and so the empire remains entire, and an absolute independence of such will, although thereby a severance of the empire, the colonists resolved on the latter.

The parties appealed to arms, and the reigning prince taking a part against the colonists, they declared themselves absolved from their allegiance, and the relation of sovereign and subject between him and them ceased. Such is the simple principle of the American revolution. The question was limited as to the parties, it being between the Parliament and the colonies, and not between the colonies themselves, and also as to its subject, it being a mere legal question arising on the British constitution. We, therefore, conclude, with stating, that the doctrine of any one of the states acquired, as against any other of them in consequence of the revolution, any territorial rights, or an enlargement or extension of territory, is inadmissible.

We are, Gentlemen, &c.

Ezra L'Homedieu,
Samuel Jones,
Egbert Benson,
Joseph C. Yates.

To Aaron Oliver, William S. Pennington, James Parker, Lewis Condict, Alexander C. McWhorter, Esquires, October 3, 1807.

UNCERTAINTY AS TO NEW JERSEY'S SOUTHERN BOUNDARY.

Gentlemen: A recurrence to the grants from the duke does not enable us to find where he expresses the southern boundary to be the main sea. In the release of 1664 Berkeley and Carteret, his description of the boundaries of New Jersey, is as follows, viz: bounded on the East, part by the main sea, and part by Hudson's river, and hath upon the west Delaware bay or river, and extendeth southward to the main ocean, as far as Cape May, at the mouth of Delaware bay; and to the Northward, as far as the northern most branch of the said bay or river Delaware, which is forty one degrees of latitude, and crosseth over thence in a straight line to Hudson's river, in forty one degrees of latitude." In his deed of confirmation "to the twenty four proprietors of East New Jersey, of the 14th of March, 1682, is the following description: "All those easterly parts or shares, and portions, of the said whole and entire tract of land and premises before mentioned, extending eastward and northward along the sea coast and the said river, called Hudson's river, from the east side of a certain place or harbour, lying on the southerly part of the same tract of land, and commonly called or known in a map of said tract of land, by the name of Little Egg harbour, to that part of said river called Hudson's" &c.

Besides, the map of New Jersey manifestly shews the ocean to be the longest part of its eastern boundary line, and that the course of the sea coast is almost north and south from Little Egg Harbour, and is as directly so as the Hudson river itself; whence it seems to be manifest, that the duke of York did not intend to use the term main sea in a different sense from the synonymous term, ocean, but according to the real fact of the case, that is to say, the ocean lying on the eastern boundary, agreeably to the common and legal acceptance of the main sea. That we are ready to admit that the Raritan bay, the Sound, and Kill of the Kull, may be well denominated arms of the sea, which may be said to extend from the fauces terra, as far as the tide ebbs and flows.

But we do not perceive any necessity to depart from the express terms of the grant and leave a direct northerly course through the Narrows, which is equally an arm of the sea, in order to deviate to a westward course round Staten Island, which instead of effecting any mainfest intention of the duke of York, seems directly contrary to it, if any meaning is to be collected from the description of the course as

being north, and the situation of the land, as lying Westward of Manhattan's Island and Long island, and not as lying westward of Manhattan's island and Staten island, which otherwise would have been his mode of expression.

We cannot, as yet, perceive why the common law construction of the Duke's grant, which is manifestly according to his real intent, (should in a discussion like the present) be given up in order to let in a narrow prerogative construction, which is defined to be "law in case of a king, which is not law in case of a subject", which construction, if carried to its extent, under the arguments which have been delivered to us, deprives New Jersey of all jurisdiction on her shores lying adjacent to Delaware river, Delaware Bay, the main sea, the Raritan bay, the Sound and the Kills, and from thence to the 41st degree of latitude, on the Hudson's river. We are gentlemen,

Yours respectfully,

William S. Pennington,
Aaron Ogden,
Alexander C. McWhorter,
James Parker,
Lewis Condict.

To Ezra L'Homedieu, Samuel Jones, Egbert Benson, Joseph C. Yates, Commissioners, October 3rd, 1807.

THE DISPUTE OVER THE SOUTHERN AND EASTERN BOUNDARY OF NEW JERSEY.

Gentlemen: Although it probably was understood, that those interchanged on the 3rd Instant, were to close the written communications between us, you will permit us in answer to one of your's received since, briefly to state, that we have been misconceived, if it is to be supposed that we considered the expression main sea, in the grant from the duke, as denoting its southern boundary: on the contrary, we contend that sea and ocean, as they stand in the grant, are to receive different significations and that the ocean is its southern, and that the sea forms a part of its eastern boundary, and this interpretation is confirmed by the partition deed between the proprietors, in 1676, and the two subsequent grants or confirmations from the duke, of the 10th Sept. 1680, and the 14th March, 1682, on which the boundary of East New Jersey, from Little Egg harbour to the degree of latitude on the Hudson, is described, as "extending eastward and northward along the sea coast and Hudson's river", and which, by the familiar process of *reddendo singula singulis*, and to that end, transposing the words, may be made to read, "extending eastward along the sea coast and northward along Hudson's river", and then, as it respects the eastern boundary, a case, of the nature we have in a former communication suggested, would arise, in which the Hudson ought constructively to be construed as commencing at Sandy hook; one thing is assuredly evident, that the partition deed and the two subsequent grants suppose the course of the Coast from Little Egg harbour towards Sandy hook to be for a distance easterly, and if for any it must be the whole distance, there no where existing a natural boundary for such a distance, less deviating from a right line, than that reach or portion of the coast. We will only add, that the subsequent use of the term coast as a synonyms of ocean, scarcely to be conceived applicable to a bay or arm of the sea, is decisive, that our interpretation, as to the different senses in which the terms ocean and sea are used in the grant, are to be received, is correct. We are Gentlemen, &c.

Ezra L'Homedieu,
Samuel Jones,
Egbert Benson,
Joseph C. Yates.

To Aaron Ogden, William S. Pennington, James Parker, Lewis Condict, Alexander C. McWhorter, Esquires. Commissioners, October 5th, 1807.

(Here a verbal conference of some hours took place between the Commissioners on both sides.)

NEW JERSEY CLAIMS ITS EASTERN BOUNDARY LINE RUNS THROUGH THE NARROWS.

Gentlemen: After mature deliberation and due attention to the written communications that have passed between us, in our late discussion, we are of the opinion, that according to the terms and manifest intention of the Duke of York, in his several

grants to Lord Berkley and Sir George Carteret, and their assigns, that the eastern boundary line passes through the Narrows, and not through the Sound and Kill van Kull; and further, that in virtue of these grants, as also of the sovereignty of the State of New Jersey, this boundary line extends us—que ad filum aquae, or the midway of the river Hudson, or the waters lying between the shores of the two respective states.

We have to request from you a like explicit opinion.

Should the opinion of the respective boards of Commissioners of New York and New Jersey be, unfortunately, different on the foregoing points, then we have to enquire, whether there might not be an accommodation line, different from that which may have been expressed in either of our opinions, and so as to suit the mutual and respective convenience of the two states. We are Gentlemen, &c.

Aaron Ogden, William S. Pennington & others.

To Ezra L'Hommedieu & others, 6 Oct. 1807.

NEW YORK REFUSES TO SURRENDER STATEN ISLAND TO NEW JERSEY.

Gentlemen: In answer to your Note of this day, we can only say, that such are the facts, and such, to our minds, have appeared the reasoning from them, that we have not been able to persuade ourselves otherwise, than that New Jersey cannot claim Staten Island, or below high water mark, of the waters between the shores of the two states.

The citizens of all the states in the Union have the benefit and use of the navigable waters within the jurisdiction of New York, in common and equally free with her own Citizens and the citizens of New Jersey may avail themselves of her existing general provisions for gratuitous grants, to the owner of the adjacent land, for land below high water mark; still any proposition from you, on the ground of consulting the mutual and due convenience of both the States, specifying or defining a line within which New Jersey is to have the jurisdiction free in future from the claims of New York, to the end that her citizens may then have a benefit of use, without unreasonable detriment to others, or apprehensive of evils of a public or general nature, and which they cannot have if the jurisdiction of New York is to extend over the whole of the waters in question, it will receive our deliberate, and we trust unprejudiced consideration. At the same time it is submitted, whether, inasmuch, as already with respect to the laws of quarantine, and as the period is approaching when, in every other respect, a strict, and of course, an expensive police force will be requisite over the waters in the vicinity of the city of New York and that, in order to its being effectual, it must be coextensive with the waters themselves, it will not behove both parties to proceed with caution in a measure of much magnitude, and not to be foreseen in all its consequences.

Ezra L'Hommedieu,
Egbert Benson,
Samuel Jones,
Joseph C. Yates.

To Aaron Ogden, William S. Pennington, James Parker, Lewis Condict, Alexander C. McWhorter, Esquires, October 6, 1808 [??]

NEW JERSEY OFFERS A CONCESSION.

Gentlemen: Being so unfortunate as to differ on the question of right, and you having cast back on us the necessity of making proposals for accommodation, we would ask whether it would accord with your views (should the State of New Jersey relinquish her claim to Staten Island) to run the line of jurisdiction between the two states, from the middle of Hudson's river, in the 41st degree of north latitude, down the middle of said River and New York Bay, through the kill of Kull and the Sound but so as to have the Small or Oyster Islands, within the jurisdiction of New York. We are, Yours respectfully,

Aaron Ogden,
William S. Pennington,
James Parker,
Lewis Condict,
Alexr. C. McWhorter

To Ezra L'Hommedieu, Samuel Jones, Egbert Benson, Joseph C. Yates, Esqrs. Commissioners, October 6th, 1807.

NEW YORK DECLINES TO CONCEDE THE MIDDLE OF THE HUDSON AS A BOUNDARY LINE.

Gentlemen: We took it for granted, that, having declared ourselves definitely against the admission of the claim of New Jersey, as founded in right, than propositions of accomodation, if any, were to originate on her part.

We cannot accede to a proposition by which the middle of the river Hudson, for any distance, shall be the line dividing the jurisdiction.

We are, &c

Ezra L'Homedieu and others

To Aaron Ogden and others, Commissioners, 6 Oct. 1807.

NEW JERSEY SUGGESTS A DISCONTINUANCE OF NEGOTIATIONS.

Gentlemen: Understanding that no line will be agreed upon by you, on the principle of an accomodation of differences respecting the eastern boundary of New Jersey, and further, that you cannot consent to make any propositions to us upon this subject, permit us to say, that we do not perceive any utility in continuing the present discussion, unless you have some further communications to make to us. We are very respectfully,

Aaron Ogden,
William S. Pennington,
James Parker,
Alex. C. McWhorter,
Lewis Condict.

To Ezra L'Homedieu & others, Commissioners.

NEW YORK'S ULTIMATUM.

Gentlemen: We can only repeat, that a proposition of a line, having for its object the convenience of the Citizens of New Jersey, will be received by us; & on deliberating on it we shall only regard the considerations we have suggested, of benefit & use to accrue to them, of detriment others may suffer, and of evil to be apprehended to the whole community, and consequently we decline an accomodation on any other grounds. We are, &c.,

Ezra L'Homedieu and others

To Aaron Ogden & others,
Comms. 6 Oct. 1807.

NEW JERSEY'S DIGNIFIED REJOINDER.

Gentlemen: It is not for the State of New Jersey to ask and receive benefits from the State of New York. We have not been commissioned for any such purpose.

As the claim of New Jersey, as stated by us, has, unfortunately, failed to produce in you a disposition to settle a jurisdictional line upon principles of mutual concession, which principles, and not any conviction of right in New York, constituted this basis, all further attempts towards accomodation are at an end.

We are at a loss to conjecture, whence it is that you have imbibed an idea so wholly unworthy of us, as that we would treat for the convenience of individual citizens, at the expence of the just rights of the State.

We are, Your's respectfully &c.

Aaron Ogden,
William S. Pennington
James Parker
Alexr. C. McWhorter
Lewis Condict

To Ezra L'Homedieu, Samuel Jones, Egbert Benson, Jos. C. Yates, Esqrs. Commissioners, October 7th, 1807.

AN ORDNANCE AND AMMUNITION EXPENSE ACCOUNT.

Gentlemen: Herewith you will receive my account of receipts and expenditures, pursuant to the Act for procuring ordnance and ammunition.

The castings which have been compleated and delivered, consist of ten brass three pounders, four six pounders, four medium twelves and one provet. The residue of the materials belonging to the State, will be cast as soon as the arrangements of the furnace at George-Town will admit. In addition to the above, I have caused to be purchased, one heavy brass six, and two four pounders.

Eight carriages for the three's are completed, and the remainder of the above mentioned artillery will be mounted as speedily as possible. Two travelling forges have been ordered to be made. A quantity of ball has been contracted for in Albany, and the commissary for Military stores is directed to purchase an additional quantity in New York. Should the legislature be of the opinion, that the Act above mentioned, does not authorize the Governor to direct the casting of Mortars, it would be advisable to provide for the casting or purchase of at least two eight inch and ten inch mortars. The greater cheapness and almost equal usefulness of iron ordnance, and the scarcity of the materials for fabricating brass artillery, induce me to recommend a provision for procuring and equipping a number of iron eighteens and twenty-fours.

The several Captains of Artillery companies, cannot conveniently afford the expence of erecting Gun houses for the preservation of their pieces and implements. The loss annually sustained by the State, for the want of such houses, in the wastage, damage and losses of the carriages, boxes, tumbrels, harness &c, suggests the propriety of making a small appropriation for erecting gun-houses, in such places as some proper officer may designate.

A recent act of the Legislature will render it necessary to remove a considerable part of the small arms and fixed ammunition from the arsenals. The safety and welfare of the state require a considerable supply, in lieu of those removed. It is, therefore, submitted, whether they cannot be delivered cheaper by contracting for considerable quantities at one time, and whether it would not be advisable to leave to the officer authorized to purchase two thousand arms, by an Act of the last session, and to the officer who may be directed to provide an additional supply, the discretion of procuring arms, either of home or foreign manufacture, accordingly as they can be obtained more speedily or upon more economical terms.

The public exigence also requires an appropriation to defray the expence of preparing more fixed ammunition than is at present possessed by the State.

Daniel D. Tompkins

Albany, February 15th, 1808.

DR. THE STATE OF NEW YORK IN ACCOUNT WITH DANIEL D. TOMPKINS. CR.
For Receipts and Expenditures, under the Act for procuring Ordnance and Ammunition.

1807 October 22nd	To cash advanced Mr. Foxall of George Town on account of fabricating cannon for the State of N. Y. " cash advanced John McLean for three cannon purchased for the State—for car- riages for three pounders—for the trans- portation of artillery from George Town to New York, &c.	\$2000	1807 Aug. 1st Oct. 26	By warrant on the Comptroller Do ' balance of J. McLean's account with Gov- ernor Lewis, for expenses, &c. under this account.	\$2500 1000
		2015.58	1808 Feb. 15	Warrant on the Comptroller	15.58
		\$4015.58			\$4015.58

Errors Excepted, Albany 15th February 1808

DANIEL D. TOMPKINS.

State of New York }
Comptroller's Office }

I have examined the preceding account
of Daniel D. Tompkins, governor of the State of New
York, with the vouchers accompanying the same, and
do hereby certify that the sum of Four thousand and
fifteen Dollars, and Fifty Eight Cents, has been expend-
ed by him, under the Act for procuring Ordnance and
Ammunition.

ARCH'D MCINTYRE
February 15th, 1808.

DELAWARE OPPOSES A PROPOSED AMENDMENT TO THE FEDERAL CONSTITUTION.

Gentlemen: A Letter from the Governor of Delaware, together with certain resolutions of the Legislature of that State; are herewith transmitted for your consideration.

Albany, February 29th, 1808.

Daniel D. Tompkins.

(CIRCULAR)

Dover, 15th February, 1808.

Sir: I have the honor to transmit you herewith a resolution of the general assembly of the State of Delaware, disapproving the amendment proposed by the general Assembly of the State of Vermont, to the constitution of the United States, so as "to empower the President of the United States to remove from Office any of the judges of the Courts of the United States, upon address to him made for that purpose, by a majority of the house of representatives, and two thirds of the Senate, in Congress assembled; " and, in obedience to the said resolution, to respect you to oppose the proposed amendment.

I am very respectfully, Your obedient Servant

George Truitt.

His Excellency, The Governor of New York.

In the House of Representatives, January 26, 1808.
RESOLVED, by the Senate and House of Representatives of the State of Delaware, in general assembly met, that the alteration, proposed to the constitution of the United States, by a resolution of the General Assembly of the State of Vermont, on the sixth day of November, One thousand Eight hundred and seven, so as "to empower the president of the United States to remove from Office any of Judges of the Courts of the United States, upon address to him for that purpose, by a Majority of the house of representatives and two thirds of the Senate in congress assembled" be, and the same is hereby disapproved by the legislature of this state; and that the Senators and representatives, in the Congress of the United States, from this State, be, and they are hereby requested to oppose the same alteration; and the Governor of this State is hereby requested to transmit to each Senator and the representative in Congress from this State, and to the executive of each State, a copy of this resolution, that the same may be laid before the legislatures of the several States, with a request to oppose the said alteration.

Extract from the Journal John Fisher, Clk. H Rep.

Sent for concurrence

In Senate, February 2nd, 1808 G. W. Sykes, Clk. of the Senate

Read and concurred in
A true copy—attest.

Thos. Clayton, Secretary.

VIRGINIA'S POSITION ON THE PROPOSITION.

Gentlemen: A Letter from the Governor of Virginia, together with a Resolution of the Legislature of that State, relative to an Amendment of the constitution of the United States, are herewith enclosed for your consideration.

Daniel D. Tompkins.

(CIRCULAR)

Richmond, Feby 22, 1808.

Sir: I have the honor to transmit you herewith, a resolution of the general assembly of the State of Virginia, proposing that the constitution of the United States shall be so amended "that the Senators in the Congress of the United States may be removed from office by the vote of a majority of the whole number of the respective State legislatures, by which the said senators have been or may be appointed;" and to request that you will be pleased to lay the same before the legislature of the state over which you preside.

I am, with great respect, Sir, Your most obedient Servant

Wm. H. Cabell

His Excellency, The Governor of New York.

RESOLVED, That our senators in the Congress of the United States, be instructed, and our representatives requested, to endeavor to obtain the following amendment to the constitution of the United States, to wit:

"That the Senators in the Congress of the United States may be removed from Office by the vote of a majority of the whole number of the members if the respective state legislatures, by which the said Senators have been, or may be appointed?"
January the 13th, 1808.

Agreed to.

Robert Taylor, S. S.
Hugh Nelson, S. H. D.

A True Copy

Teste.

J. Pleasants, Junr. Keeper of the Rolls.

RESOLVED, That the Governor be requested to transmit to the Senators and representatives of this State, in Congress, and to the governors of the other States, a copy of the resolution adopted by this present general assembly, proposing an amendment to the Constitution of the United States.

February 9th 1808

February 9th 1808 Agreed by the house of Delegates James Pleasants Junr. C. H. D.

Agreed to by the Senate Theo. Hansford, C. S.

A True Copy

Teste.

J. Pleasants, Junr. Keeper of the Rolls.

THE GOVERNOR NOTIFIES PRESIDENT JEFFERSON OF THE PROVISIONS
MADE FOR THE FRONTIER BY THE LEGISLATURE.

Albany, 18 April, 1808.

Sir: The Legislature of this State at their Session which has recently closed have directed me to deposit in certain places in the Neighborhood of our Northern and Western Boundary four thousand stand of arms with a discretionary quantity of ammunition.* In addition to that provision and others relative to procuring a further supply of ordnance and ammunition they have appropriated one hundred and twenty Thousand Dollars to aid the United States in forwarding the objects specified in the enclosed law.

In a letter which you addressed to me on the 26th day of January last, you intimated that should the then existing differences be amicably settled it would be a question for consideration whether a strong fort ought not to be established on the St. Lawrence near the Northern Boundary of this State. Will you have the goodness, to inform me, whether in forwarding that object or any other in contemplation or which may be devised, the appropriation in the enclosed Act can be expended by me

*Under Chapter VII of the Laws of 1808, the governor was authorized to deposit in such place or places of the county of Genesee as he shall think fit, five hundred stand of the arms of this State; and one thousand stand at Canandaigua, in the county of Ontario; five hundred stand in the town of Onondaga, in the county of Onondaga; five hundred stand at Champion, in the county of Jefferson; seven hundred stand in Rome, in the county of Oneida; and five hundred stand at such place or places in the counties of Essex and Clinton as he shall think fit.

in contributing to the defence of the port of New York, or in attaining the important object of extending protection and safety to our frontier Brethern.

From the 25 inst. to the 1st of June, I shall probably be in the city of New York, where I shall be obliged by receiving advice and instruction as to the application of the sums of money appropriated by the within Act.

Be pleased to accept the assurance of my sincere regard and esteem.

Thomas Jefferson,* President of the United States.

* Letter of Hon. Thomas Jefferson to Daniel D. Tompkins—Washington, Jan. 26, 08.

Sir, I take the liberty of inclosing to you the copy of an application which I have received from a portion of the citizens of the State of New York residing on the river St. Lawrence and Lake Ontario setting forth their very defenceless situation for want of arms and praying to be furnished from the magazines of the U. S. Similar applications from other parts of our frontier in every direction have sufficiently shewn that did the laws permit such a disposition of the arms of the U. S. their magazines would be completely exhausted and nothing would remain for actual war, but it is only when troops take the field that the arms of the U. S. can be delivered to them. For the ordinary safety of the citizens of the several states whether against dangers within or without their reliance must be on the means to be provided by their respective states. Under these circumstances I have thought it my duty to transmit to you the representation received not doubting that you will have done for the safety of our fellow citizens on a part of our frontier so interesting and so much exposed what their situation requires and the means under your controul may permit.

Should our present differences be amicably settled it will be a question for consideration whether we should not establish a strong post on the St. Lawrence as near our northern boundary as a good position can be found. To do this at present would only produce a greater accumulation of hostile force in that quarter.

I pray you to accept the assurances of my high respect & esteem

Th. Jefferson,

P. S. I also inclose the copy of a Letter from Mr. Peregrine Fitz Hugh of Sodus.

H. E. Governor Tompkins.

To His Excellency The President of the United States. The undersigned are a committee appointed by a meeting of the Inhabitants of the county of Jefferson for the purpose of making known to your Excellency their situation & of praying such relief & assistance as in your wisdom it may seem proper to afford.

They therefore beg leave most respectfully to submit the following representation:

The county of Jefferson is situated in the Northern part of the state of New York: stretching 40 miles on Lake Ontario & 30 miles on the river St. Lawrence. Nine years ago it was a perfect wilderness: now it contains upwards of 3000 men capable of bearing arms and is covered with flourishing settlements. No instance of so rapid population has ever before occurred in the state—the rapidity of settlement has been the result of the very great advantages which this country possesses. In no part of the state is there so large a body of lands uniformly good to this may be added the advantages of a most healthy and delightful climate.

The undersigned would proceed most respectfully to state the very defenceless situation of the people whom they represent. They are extremely in want both of arms and ammunition. Not more than 3 or 400 guns can be mustered in the county and of these a large proportion are but poorly fit for service—there are no bayonets & no

THE GOVERNOR'S DIRECTIONS REGARDING THE CONSTRUCTION OF AN
ARSENAL AT ROME.

Albany, April 18, 1808.

Gentlemen: The whole of the arms and ammunition destined for the Western District under the Act to provide for the defence of the Northern and Western Frontiers, is in readiness to be transported thither, but the uncertainty of finding any convenient place of deposit on their arrival compels me to retain them until I am sure they will be safely stored. I have, therefore, sent on Captain Yates† lately in the service of the United

ammunition worth mentioning, besides the people are not at all able to provide themselves with the means of defence, they are extremely poor—this may well be supposed from the youth of the country new settlements being generally formed by enterprising men in low circumstances. It requires all the efforts they can possibly make for some years to support their families and to meet the payments on their lands, in fact it is not going to far to say that the people of this county are at present but a little more than able to provide for their own subsistence. Foreign goods are extremely high from the great expence of transportation and it requires some years for the settlers of new land to get in the way of raising the necessary wool flax and hemp for manufacturing their own clothing indeed our country is still in that period of infancy during which great difficulties are to be struggled with and all the efforts of all the people are necessary even in peaceful times. When ten years more shall have passed over our heads the state of things will be materially changed the country will be able to provide itself with arms and ammunition it will have a large surplus produce for exportation the land will be paid for and in case of difficulty with a neighbouring power the people will be able to direct a constant effort to their defence without exposing their families to any difficulty of subsistence—This at present is impossible.

Suffer the undersigned now to solicit the attention of your Excellency to the very serious dangers which threaten the country whose case it has been made their duty to lay before you.

We have an extensive frontier and are exposed every instant to an incursion—preparations for war have been made and are making in Canada with the greatest activity a considerable reinforcement of regular troops has been received and a formidable body of Indians can upon short warning be assembled. There is certainly strong ground to believe that an attack in case of war is meditated and a sudden attack without previous measures of defence on our part might be attended with the most dreadful calamities.

No person can doubt that Canada must fall whenever the government of the U. S. puts forth its strength. Our fears are grounded on the defenceless situation in which we now stand connected with the ease with which while that situation continues our country may be ravaged and destroyed. A few days would be sufficient to reduce us to ruin for the power on whom we border possesses the means of striking an immediate blow not the delay of twenty hours even need occur after war is determined on and a very small force would now over run our country almost without opposition. Destitute of Arms & of ammunition we must fall an unresisting victim. And when the dreadful nature of Indian hostilities is recollected can the claim of assistance which we would most respectfully urge upon the government of our country be viewed in any other light than as a claim founded equally in the strongest feelings of nature & the most obvious principles of justice. We are ready to fight & to die in the defence of the country. We ask only to be put in a condition to act with a

States to prepare places of deposit. Should there be no convenient place for storing arms and ammunition at Rome a building must be erected for that purpose. This building if erected at the expense of the State will be such only as is necessary to carry this particular Act into effect. That is to say, about thirty feet in length and twenty in width within the inner siding or ceiling, two stories high and each story eight feet in the clear, covered very securely with shingles, sided with rough boards and ceiled on the inside of the beams or posts throughout, with boards planed on the inner side and grooved. The foundation,

rational prospect of success. But situated as we at present are an abandonment of the settlements in the event of an attack is the only choice which appears to be left to us.

The county of Jefferson viewed in reference to its position certainly deserves a very important consideration. It must ever be a principal medium of communication between the U. S. and the best of the Canadian provinces, the natural course of an invading army would be through this County. Kingston which lies directly opposite to it is the post most valued and relied upon by the British government. It is the last post which that government would abandon and an immediate seizure of Kingston in the event of war would in the apprehension of the undersigned be a measure equally calculated to give safety to the American frontier and to prepare the way for an easy reduction of the whole province of Upper Canada.

We address your Excellency therefore under a deep sense of the dangers to which we are exposed and with a perfect reliance that the government will feel every disposition to give us effectual assistance. We pledge our lives & our honor for the full exertion of all the faculties we possess in repelling the enemy & in rolling the tide of invasion back upon him. We pray for assistance to enable us to be useful to our country & to ourselves. We pray for assistance that we may not fall the unresisting victim perhaps of a savage foe & when in addition to all that has been said it is recollected that the seizure of this country by British Troops assisted by Indian auxiliaries would be followed by the erection of fortresses in the important points which might render no inconsiderable sacrifice of blood and Treasure necessary to regain the country a view of the subject must be presented the very great importance of which we are sure your Excellency will at once appreciate.

We conclude with most respectfully praying that a military station be established on the St. Lawrence and a body of Troops posted there and that such other measures be adopted for our safety as in the wisdom of your Excellency the urgency of the case may seem to require.

And your petitioners as in duty bound will ever pray

Thomas Y. How, Moss Kent, Amos Benedict, Jacob Brown, Samuel Whittlesey, Saml. C. Kenada.

Noadiah Hubbard, Jonathan Miller of
Ethel Bronson, Perley Keyes,
Thomas White, William Rice,
Joshua Brals, Paul Stickney,
William Hunter, Clark Allen,
Jesse Hopkins, Lemuel Hubbard,
Augustus Sacket, Elisha Camp,
Corlis Hinds, William Huntington,
Gershom Tuttle, Samuel Mack,
Eth. Evans, James Shurtliff,
† Captain William Yates.

Champion.
Rutland
Harrison
Adams
Malta
Henderson
Hounsfield
Watertown
Brownville
Le Ray

sleepers, beams, posts, &ca., to be of the most substantial kind so as to endure at least three tons weight in the second story without injury. For the purpose of having a serviceable building in your village [Rome], I hope you as respectable citizens, will afford your advice and assistance in this business, and occasionally have a Superintending eye to the persons contracting to erect the building and see that no materials are used but such as are of suitable quality, and that the workmanship is well performed. Mr. Yates is at liberty to authorise you to contract for such building upon the best terms you can obtain (if you are willing to undertake it) and the payments for the expenses incurred, will be made by me with warrants upon the Treasurer as you shall jointly request and upon your receipts therefor. You will also be at liberty to employ some person to superintend the building under you at Moderate Wages, whom you would be willing to recommend as a suitable person to take charge of the property deposited in it, when the building is completed.

Should you decline the trouble which this superintendance will give, I will thank you to inform me of it. It will be necessary that the ground upon which the Arsenal is built, should be leased free of rent or ceded to the State to be exclusively possessed as public property so long as it may be used by the State for the purpose of an Arsenal or Deposit of arms and ammunition.

The site may be at any place within the town of Rome, and if suitable ground cannot be obtained gratis for this purpose within the village of Rome, the Arsenal will not be confined to the village but may be erected at some suitable place in the town.

Henry Huntington, Joshua Hatheway, Samuel Dill, Esqrs.

GOVERNOR TOMPKINS TO GENERAL DEARBORN ON THE DEFENCES OF
NEW YORK CITY.

New York, May 5, 1808.

Sir: By the Act of the Legislature of this State which I had the honor to transmit to you some days since, the commissioners appointed to cede to the United States the use and jurisdiction of certain lands for the defence and safety of the City and Port of New York, are required to describe such lands as accurately as may be by metes and bounds. The sites for the Arsenal and magazine, and for the works opposite the Battery and in the vicinity of Laight's Street, have been described with sufficient accuracy to enable us to cede the title and jurisdiction thereof at the present meeting of the commissioners. The writ *ad quod damnum* to obtain the title of Ellis' Island will be executed on the 14th inst. and the judgment of the Court of Chancery on the return of the Inquisition will be obtained without delay.

In your letter of the 13th of April last, you observe "that after what is necessary in relation to that Island shall have been done it will be desirable to have a decision in regard to the bed of the river or harbor between Governor's and Bedlow's Island." I presume from this letter, that the acquisition of the title and jurisdiction of Ellis' Island is a preliminary measure, and that until it is accomplished a decision upon the cession of the bed of the harbour for the plan of defence by blocks and *chevaux de frise* is not required. The commissioners have, therefore, concluded to postpone a determination upon that subject until the title and jurisdiction of Ellis' Island is vested in the United States. In the mean time, I am instructed by them to request that you will have the goodness to furnish such

a description of the place or line in which you propose to erect the blocks and chevaux de frise, that should the commissioners at their next meeting, conclude to cede the title and jurisdiction necessary for that purpose, they may be enabled to describe the cessions with the accuracy and certainty required by the law under which they act.

The Honble. Henry Dearborn.

THE GOVERNOR DISTRIBUTES ORDNANCE SUPPLIES AND ISSUES
INSTRUCTIONS TO JOHN M'LEAN, COMMISSARY OF MILITARY
STORES.

New York, 9 May, 1808.

Sir: By an act of the Legislature of the State of New York entitled "An Act to provide for the defence of the Northern and Western Frontiers" passed 12th February 1808, it is made my duty to cause certain quantities of arms, ammunition and military stores to be transported and deposited in the places contemplated by that Act. Accordingly I have concluded to transport and deposit at the following places the following articles

In the County of Genesee.

500 Stand of small arms,
300 Setts of Accoutrements,
1,000 Flints,
10,000 Rounds of fixed Ammunition,
6 Quarter Casks Common Powder.

At Canandaigua, in the County of Ontario.

1,000 Stand of Arms.
600 Setts of Accoutrements,
1,500 Flints,

15,000 Rounds of fixed ammunition,

2 Brass four pounders with implements complete,

200 Four pound balls,

6 Quarter Casks of Cannon Powder.

At the town of Onondaga, in the county of Onondaga.

500 Stand of arms.

300 Setts of Accoutrements.

1,000 Flints.

3 Quarter Casks of Cannon Powder.

At Champion, in the County of Jefferson.

500 Stand of Arms.

350 Setts of Accoutrements.

1,000 Flints.

7,500 Rounds of fixed ammunition,

3 Quarter Casks of Cannon Powder.

At Rome, in the County of Oneida.

700 Stand of arms,

500 Setts of accoutrements,

1,500 Flints,

10,000 Rounds of fixed ammunition,

1 Three pounder,

6 Quarter Casks of cannon powder,

100 Cannon Ball for three pounders,

100 Cannon Ball for ——— Pounders.

In Clinton & Essex Counties.

500 Stand of arms,

350 Setts of accoutrements,

1,000 Flints,

7,500 Rounds of fixed ammunition,

6 Quarter Casks of cannon powder,

2 Three pounders,
200 cannon ball for three pounders,
100 cannon Ball for ——— pounders.

You will, therefore, proceed without delay to Albany and attend to the delivery thereof for transportation to the said several places and put them under the care and superintendence of suitable persons who will attend to their delivery at the following places, viz: Those designed for Genesee and Ontario to be deposited at Canandaigua until suitable arrangements can be made for Genesee; those destined for Champion in Jefferson County will be left at Utica in Oneida County until arrangements be made for their receipt at Champion; those for Onondaga and Rome will be left at those respective places, and those for Clinton and Essex will be deposited in such places in those counties as you may think will be most secure and at the same time convenient in case of any attack in that quarter. To enable you to determine with more equity in this business I would remark that Judge Pliny Moore, of Champlain, has already one hundred and thirty stand of arms and ——— rounds of fixed ammunition which will be left there for the present. That at Plattsburgh or its vicinity, a corps of associated patriotic exempts has been formed consisting of Judge Newcomb, General Woolsey, Peter Saily, Esquire, and others, who will be supplied with about 50 muskets in addition to the provision of the above Act pursuant to another law of the last Session. I would refer you for advice and information in addition to the above remarks to General Moers, Mr. Saily, Judge Newcomb, General Woolsey, Judge De Lord, &ca., of Clinton, and to Judge Kellogg, Judge Pond, Jonathan Lynd, Esqr., &ca., of Essex County. The accompanying Letters and information acquired by Captain Yates in

his tour to the Westward on the above subject are annexed for your information in that quarter.

The persons to whom the property is delivered must give a bond with sufficient surety in a penalty of double the value of the articles delivered conditioned for their safe keeping and for the delivery of them or any part of them in the same condition in which they are received upon the order in writing of the person administering the government of this State.

At Canandaigua, a deposit must be erected of the dimensions, and built and finished in the manner specified in your letter directed to me at Albany, if a cession of ground can be obtained for that purpose.

The mode of conveyance of the above articles will be selected by you, unless John Vernor, Assistant commissary at Albany has already contracted on that subject as he was authorised to do by me before leaving Albany.

If the property is transported by water the boats must have good awnings and be dry and the person transporting must in any contract made or to be made, undertake to be answerable for losses or damage arising from the insufficiency of the boats or carriages and negligence of their hands.

The compensation to those who may receive and give security for the custody of the several articles will not be more for the present than thirty Dollars per year, and a moderate compensation for storage while they remain in private stores or warehouses, will be paid.

You are at liberty to make such reasonable advances to those who may have the superintendence of the conveyance of arms, &c., as may be deemed necessary to defray the expenses incident to that business but the compensation for water carriage

must be left to be paid after the arms, &c. are safely delivered at Mynderse's falls or near there.

You will also inspect and store in the arsenal or arsenal yard, at Albany, all the cannon ball which John Townsend and Co. have completed, according to contract, and settle their account therefor, bearing in mind that they have already received \$1,000 on account, and that the price to be paid there, is to be the price for casting in New York with the addition of the freight of as many tons, as there may be of shot, from New York to Albany.

Herewith you will receive seven hundred and fifty dollars in advance towards the expense of this business.

John McLean, Esquire.

GOVERNOR TOMPKINS TO GENERAL DEARBORN RELATIVE TO ARSENALS
IN NEW YORK AND DEFENCES.

New York, 12 May, 1808.

Sir: In addition to the appropriation of twenty thousand Dollars for the defence of the Northern and Western frontiers of this State, the Legislature at their late Session directed me to deposit in Genesee County, Ontario County, Jefferson County, Oneida County, and in the counties of Clinton and Essex four thousand stand of arms with a discretionary quantity of ammunition and military stores, and authorised the erection of Arsenals or suitable places of deposit therefor. As the arms of the United States cannot be delivered out to the militia or distributed until they take the field, it has occurred to me that should a part of those be deposited in an Arsenal in Canandaigua, in the County of Ontario, a part at Rome (Fort Stanwix) in the County of Oneida, and a part at Whitehall, Platts-

burgh or some other convenient place towards Lake Champlain, the arsenals or places of deposit to be constructed under the authority of the State, might be made of such dimensions as not only to contain the arms and military stores of the State destined for those places, but also to accommodate the United States for a deposit for part of the arms belonging to them. Should this be acceptable to the United States, it would be a great relief to the minds of our frontier Inhabitants, and the property would be sufficiently remote from the frontiers in a thickly settled country and would be as well attended to and as securely kept as in Arsenals at New York and Albany.

Should I be advised of a willingness on the part of the General Government to adopt the measure of storing part of their arms and military stores at the above places, such plans will be adopted in constructing arsenals there that in addition to the State property destined for those places under the above act, the arms and military stores of the United States might also be conveniently and safely stored therein.

The fund appropriated for aiding in defence of the City and port of New York will be cheerfully expended in measures supplementary to those already commenced by the United States. But as the sum may be inadequate to complete any extensive supplementary plan, it is desirable that it should be applied to such works as the General Government would deem advisable to compleat, should the one hundred thousand Dollars be exhausted before the works are finished.

Supposing that the next position to which the General Government will proceed after the works already commenced are completed, will be the narrows at and between Signal Hill and Hendrick's reef, I have addressed to Colonel Williams a letter

on that subject which he will probably communicate to you. Should the commencement of any particular plan of operations at that place be contemplated by the General Government, or should a plan now be proposed which it would be acceptable to them to carry on after the State appropriation is exhausted thereon, I feel confident that in addition to the One hundred Thousand Dollars the citizens in the vicinity will render voluntary services of considerable value.

The Honble. Henry Dearborn.

GOVERNOR TOMPKINS TO COLONEL WILLIAMS IN REGARD TO THE
WORKS AT THE NARROWS AND THE GENERAL DEFENCES OF NEW
YORK CITY.

New York, May 12, 1808.

Sir: The sum appropriated by the State of New York to aid in providing for the defence of the city and port of New York is of itself insufficient to complete an adequate plan of defence and ought therefore to be applied in forwarding the plans already commenced under the authority of the United States, or in commencing and forwarding the works contemplated by them to be erected after those now begun are finished. If the Narrows be the next position in advance designed to be fortified by the United States, I should cheerfully commence the expenditure of one hundred Thousand Dollars there, upon such plan as may be thought expedient, and such as would be pursued by the Secretary of War after the appropriation of this State may be exhausted thereon. It appears to me that between Hendrick's reef and Signal Hill on Staten Island such obstructions by blocks, booms, chains, chevaux de frise or fire ships, might be

accomplished, that with a strong work erected on each of the said places the approach of hostile ships to the city would be rendered impracticable.

Will you have the goodness to aid me with your opinion on the practicability of such a plan and the probable expense of it, that I may be enabled to inquire of the Secretary of War whether it would be completed by the United States after the appropriation of the State is exhausted thereon.

Col. Jona. Williams.

GOVERNOR TOMPKINS WRITES TO GENERAL PETER B. PORTER IN
REGARD TO THE ARSENAL AT CANANDAIGUA.

New York, May 13, 1808.

Dear Sir: I am obliged by the receipt of your letter under the date of the first inst. I have submitted to the commissary of military stores to determine on the mode of conveyance of the arms, &c. destined for the Westward. He leaves here immediately for Albany to fulfill the duties enjoined by the Act for the defence of the Northern and Western frontiers. I am apprehensive that the boxes of arms are not sufficiently secured to endure land carriage without much injury. The other articles consist of cannon, carriages, ball and powder, & ca., which it would be inconvenient and perhaps dangerous to transport by land.

Pursuant to the above mentioned act I shall erect at Canandaigua a building of wood for the deposit of the arms and military stores about 50 feet by 26 ceiled on the inner side with planed boards grooved. This will be all that is necessary to

accomplish the object contemplated by that act. But should there be a disposition in the Inhabitants of that country to add to the importance of Canandaigua and to the security of your county and the Western country generally by building a brick or stone arsenal of larger dimensions, I will pay on the behalf of the State towards it, such sum as a wooden building of the above dimensions would cost. Should such a measure be accomplished by the citizens in your quarter there is reason to believe the Legislature would afford them some additional assistance at their next session. But if they should not, a convenient arsenal at Canandaigua in which the arms and military stores belonging to the State might as well be deposited as in Albany, and in which I have no doubt I could obtain a deposit of several thousand muskets, &ca., belonging to the United States, would be an object of such importance for Canandaigua, the County of Ontario, and for the security of all the Western District that I think the patriotism of the Citizens would be displayed to their great honor and advantage.

The method of ascertaining whether such an object can be obtained, I submit to you upon consultation with other Gentlemen of the village. I shall direct Capt. Yates or James Watson, who will escort the property to be deposited at the Westward of Albany, to call upon you on their arrival at Canandaigua to know if any such plan in extension of what I am authorised to do by the above law can be effected.

It will be necessary to have a lot for the site of an arsenal ceded to the people of this State to be held by them as long as it may be appropriated to that purpose. Should the building be erected on an enlarged plan, a person would be appointed to take charge of it and its contents, who will receive such com-

pensation for his care, and the mechanical and other work done to the United States and State property as would induce some respectable [person] to undertake the duties of the office.

After about the 26th inst. I shall be in Albany and shall be happy to hear from you on my arrival there upon this subject, or in relation to any other matters which you may deem of sufficient importance to communicate.

The Honble. Peter B. Porter.

GOVERNOR TOMPKINS TO JUDGE ELLICOTT CONCERNING THE DISTRIBUTION OF ARMS FOR NIAGARA COUNTY.

New York, 14 May, 1808.

Dear Sir: By an act of the last Legislature which you have probably seen a certain quantity of arms and military stores are to be deposited for the security of the frontiers in the County of Genesee. At the time of the passage of the act Genesee comprehended Niagara County, and the latter is, therefore, to be taken into consideration in apportioning the property. The place is left discretionary with me, but I have directed that the property be forwarded with other property to Canandaigua, and be stored there until the place of deposit is determined upon and safe storage provided for. I will, therefore, thank you for your opinion as to the proper place at which to deposit the arms, &c., and as to a proper and responsible person at such place, who will take charge of them and provide a convenient place in which they may be safely kept.

A list of the property destined for Genesee county is subjoined. I shall be at Albany by the 26th instant, by which time

or as soon thereafter as may be convenient, I shall be much obliged by hearing from you on this subject.

The Honble. Joseph Ellicott.*

THE GOVERNOR REQUESTS ADVICE FROM JUDGE SAILLY, AND SEVERAL OTHERS.

New York, 14 May, 1808.

Dear Sir: The property destined for the Northward and Westward, under the act for the defence of the Northern and Western frontiers has been prepared for transportation and the Commissary of Military Stores has been dispatched to Albany to attend to the business. The act leaves the place or places at which those intended for Clinton and Essex are to be deposited discretionary with me. I am therefore under the necessity of asking for information and advice from those counties on that subject. There are already 130 muskets and some fixed ammunition in the possession of Judge Pliny Moor. There are also in Washington or Clinton County upwards of one hundred muskets belonging to the State, collected from the two thousand distributed at the Northward and Westward in the year 1794. These will for the present be left in that Country for its security, and the number authorised by the above act forwarded in addition thereto. Besides, Plattsburgh will have the benefit of the muskets to be supplied to the associated body of Patriotic military Exempts under a law which passed for that purpose. I mention these facts that you may be the better able to decide

* Joseph Ellicott had been Judge of the Court of Common Pleas of Genesee County, a Jefferson elector in 1804, and subsequently was one of the original Canal Commissioners under the act of April 17, 1816.

more equitably upon the place at which the arms &c. now to be forwarded ought to be deposited. With these remarks, I take the liberty of asking advice as to the proper mode of conveying the property to that country and as to the proper places at which they may be deposited so as to be secure from any sudden incursion of a hostile party and at the same time sufficiently near the frontier to be useful, and advantageous for the security of the Inhabitants.

I have written to General Moers, Judge Platt, Judge Newcomb, Judge Kellogg, Judge Pond, Jonathan Lynd, Esquire and others, upon the same subject with whom or as many of them as may be convenient I will thank you to confer, and favour me with your and their opinion in this business on my arrival in Albany which will be about the 26th inst., or as soon thereafter as will be agreeable to you. To prevent unnecessary alarm or agitation amongst your Canadian neighbors, it will be advisable to consider this communication confidential and to consult only with Gentlemen of respectability whose opinion you may think serviceable upon the above subject. Subjoined is a list of the articles intended for Clinton and Essex in addition to what is mentioned above.

The Honble. Peter Saily.*

500 Stand of arms; 350 Setts of accoutrements; 1,000 Flints; 7,500 Rounds of fixed ammunition; 2 Brass three pounders with carriages & implements complete; 6 Quarter Casks of Powder; 200 Ball for three pounders; 100 do for ——— pounders.

(N. B. Sent a copy of the preceding letter to General [Benjamin] Mooers, Judge Platt, Judge [Kinner] Newcomb, Judge

*Peter Saily had been member of Assembly from Clinton County in 1803 and Judge of the Court of Common Pleas from April 2, 1804, to March 13, 1806.

[Isaac] Kellogg, Judge [Benjamin] Pond, and Jonathan Lynds [Lynde] Esqr. of Essex County, omitting their respective names in the body of the Letter.)

THE GOVERNOR EXPLAINS TO JUDGE TOWNSEND WHY GENERAL GEORGE M'CLURE WAS NOT APPOINTED TO THE COMMAND OF THE WESTERN DETACHED BRIGADE.

New York, May 16, 1808.

Dear Sir: I have no recollection of your making any observations to me relative to the appointment of a Brigadier General to command the Western detached Brigade. I mentioned to you that one of four Gentlemen would be appointed and accordingly one of those four was assigned. It would have given me pleasure to have named General McClure, but when I took into consideration the residence of the commandants of Regiments in that Brigade, and the bulk of the men and the rank and local positions of the said Generals, I made the determination according to what it appeared to me the public safety and good required.

I have no hesitation in complying with your request and declaring that you never to my recollection mentioned or did anything unfavorable to assigning General McClure to that command, and that my determination was in no respect influenced by any representations from you or any other person unfavorable to that Gentleman, and that if the above circumstances had not operated upon my mind it would have been gratifying to me to have assigned him.

Henry A. Townsend, Esqr.*

*Henry A. Townsend was County Clerk of Steuben County February 11, 1799, to March 21, 1807; February 8, 1808, to February 16, 1810, and from February 11, 1811, to February 13, 1815; Surrogate from March 24, 1800, to March 25, 1805; Member of Assembly, thirty-second session of the Legislature; State Senator, 1811-1814; Member Council of Appointment, 1814.

THE GOVERNOR INFORMS GENERAL DEARBORN THAT THE VALUE OF ELLIS ISLAND HAS BEEN FIXED AT TEN THOUSAND DOLLARS.

New York, 16 May, 1808.

Sir: On Saturday the Sheriff and Jury visited Ellis' Island, and pursuant to the writ, executed the Inquisition, and valued the damages of the owners and Tenant at \$10,000. The Jury consisted of some of the most respectable and intelligent Inhabitants of this City, and who are well acquainted with the value of property in its vicinity. The amount of the damages exceeds what I anticipated before the execution of the writ. But the circumstances which then appeared and which I believe to be true, have satisfied me that a less valuation cannot be expected. The quantity and appearance of the land is no criterion to judge of its value to the owners. It is found to be one of the most lucrative situations for shad fishing by set netts within some distance of this place, yielding annually from 450 to 500 Dollars to the occupant from this single circumstance. The Oyster banks being in its vicinity affords an income in the loan of oyster boats, rakes, &c. of which I before had no idea; besides this a considerable advantage results to the occupant from a tavern in the only possible place of communication for people engaged there, between the Oyster banks and this city. I am, therefore, now fully satisfied that the annual value of the Island to the occupants is more than the Interest of 10,000 Dollars.

Under these impressions I submit to you the propriety of an application to vacate the writ and Inquisition, and to obtain a new writ and another Jury. Candour, however, obliges me to observe that were such application successful, I have no reason to believe that a more favorable inquisition is to be expected.

You will perceive by the Act which I had the honor to transmit to you, the consideration money must be paid by me into the Court of Chancery before the Judgment of the court confirming the proceedings is to be entered.

I have, therefore, thought it advisable to apprise you as early as possible of the result that you may determine on the course of proceeding proper for me to pursue. The expenses of the Sheriff and Jury and some compensation to the counsellor engaged by me on the part of the State and the fees of the Officers of the Court will be all the costs attending this business.

The Honble. Henry Dearborn.

Valuation,	\$10,000
Expenses of Advertising and Sheriff's & Jurors' fees &	
expenses,	41.25
Counsel and Attorney,	50.00
Fees of Register of the Court of Chancery,	3.75
Surveyor's fees,
	<hr/>
	\$
	<hr/>

THE GOVERNOR INFORMS MR. HUBBARD THAT THE ARMS FOR THE
DEFENCE OF THE NORTHERN AND WESTERN FRONTIERS ARE
READY FOR TRANSPORTATION.

New York, May 17, 1808.

Dear Sir: The arms &c. destined by the Act of the last Session, relative to the defence of the Northern and Western Frontier for Champion in Jefferson County have been prepared for transportation, and are now probably on their way to Utica, where they will remain until a place of deposit and a suitable

person to take charge of them can be obtained at Champion, and until a safe mode of conveying them from Utica to that place is determined upon.

I have, therefore, taken the liberty of addressing a line to yourself, Judge Clark and Jacob Brown,* Esquire, for information and advice upon that subject. A list of the property is subjoined, by which you can determine whether convenient and secure storage can be procured at Champion, and some responsible and competent Gentleman named to take charge of them. Be pleased also to let me know what arrangement will be most advisable for the conveyance of the property from Utica to Champion. I shall be at Albany by the 28 Instant.

Noadiah Hubbard, Esqr.

500 Stand of Arms; 350 Setts of accoutrements; 1,000 Flints; 7,500 Rounds of fixed ammunition; 3 Quarter Casks of Cannon Powder;

P. S. Be pleased to confer, if convenient, with such Gentlemen, whose opinion you may think serviceable in this business.

N. B. Sent a copy of the preceding letter to Judge Clark and Jacob Brown, Esquire omitting their respective names in the body of the Letter.

GOVERNOR TOMPKINS ASSIGNS TO GENERAL M'CLURE HIS REASONS
FOR APPOINTING GENERAL SWIFT INSTEAD OF HIMSELF.

New York, 23 May, 1808.

D'r Sir: I have received your letter and with pleasure assure you in answer that neither Mr. Townsend nor any other person ever intimated an idea to me unfavorable to your military capacity and skill, or having a tendency to make an impression

*Afterward General Jacob Brown.

unfavorable to your being assigned to command the most Western Brigade. The compliment paid you in General Orders* was sincere and merited; and I have never heard the slightest insinuation that the exclusive merit of your conduct in that business was not solely your own. And I can assure you that my opinion of your military character and personal worth would never be operated upon or changed by representations made in your absence, if such had ever been made.

Your information that I had said the appointment would lay between General Rhea and yourself is incorrect. My observation was that it would lay between Generals Swift, Hall, Rhea and yourself, and I did also express a wish that I might find it convenient and suitable to appoint you, which was a sincere wish and which was not prevented by any representations, insinuations or whispers injurious to you, but on the contrary my respect and Esteem for you is as great as it ever was. The reasons for assigning General Swift I will candidly state to you, and I presume they will be perfectly satisfactory.

Before the determination was made, the Legislature had passed a Law directing the Deposit of arms and ammunition for the safety of the frontiers and directed 1000 muskets and suitable quantities of military stores to be deposited at Canandaigua. As General Swift lived near that place, it was supposed by me that upon an emergency he could sooner carry orders into effect than the other Generals, because he lived nearer the place at which they would meet to be armed and more central in the detached Brigade than the others. Besides he has in his Brigade artillery companies who belong to the detachment and are supplied with pieces, and his residence is in the route of com-

*See Tompkins Papers, Vol. I, p. 162.

munication between Albany and the Frontiers, and between the other places of deposit, Onondaga and Batavia where field pieces, ball and powder, are also supplied. He is also senior in rank to yourself or Genl. Rhea, and nearest to the field Officers of the Detached Brigade; under these circumstances I thought it would be most advantageous and convenient to the public that he should be assigned. For these reasons and with these motives alone, and [not] from any other cause, he was assigned.

The appointment of the Officers of a Troop in your Brigade was delayed, partly because recommendations for that purpose ought strictly to come thro' the Cavalry Officers; the Cavalry being erected into a Corps, distinct from the Infantry or Artillery, and partly for want of time which required us to leave most of the military appointments unfinished.

Genl. George McClure.

GOVERNOR TOMPKINS TO GENERAL DEARBORN IN REGARD TO THE
TRANSFER OF ELLIS ISLAND.

New York, 25 May, 1808.

Sir: Pursuant to your advice I shall proceed to have the decision of the Chancellor upon the writ and Inquisition executed for the purpose of obtaining the Title to Ellis's Island. If you will adopt the arrangement of Instructing Captain Whiley to pay the consideration money here upon the delivery of a Deed approved by the District Attorney, it will be a convenience to me.

The law of this State requires the payment of the money into Court before the Judgment of the Chancellor is to be rendered to

vest the title of the people in the State, and such Judgment must precede a conveyance by me of the title of the State to the United States. As I shall, therefore, be obliged to deposit the money from my private friends [funds] (the Legislature having made no appropriation for the purpose) it will accommodate me to have it refunded at New York, immediately after the proceedings are completed.

The Honbl. Henry Dearborn.

THE GOVERNOR ISSUES ORDERS TO CAPTAIN WILLIAM YATES.

Albany, 26 March, 1808.

To Captain William Yates.

Sir: You will please to repair to the City of New York and proceed to assist the Commissary of Military Stores in putting up for removal towards the frontiers pursuant to an Act of the Legislature at their present Session, 1,500 Stand of arms, 1000 cartridge Boxes, and 50,000 cartridges, with fixed ammunition adapted to the calibres of the muskets so to be put up. And as soon as the same are carefully put up and ready for removal you will receive them from the Commissary of Military Stores and accompany, take charge of and cause to be transported to Albany the said muskets, cartridges, &c., and there deliver the same in the like condition in which they are received to the Assistant Commissary of Military Stores at Albany or at the Arsenal there. You will of course be under the Instructions and Orders of John McLean, Esqr., Commissary of Military Stores, as to the time and manner of putting up and preparing for transportation the said arms and ammunition and will also take charge of all field pieces, carriages, implements and am-

munition which he may deliver to you and cause the same also to be safely delivered in Albany as aforesaid. For your services whilst engaged in this business, I am content for the present to pay and allow you at and after the rate of two Dollars and fifty cents per day, to commence from Monday next inclusive, and to continue until the arms, artillery, implements, ammunition, &c., with which the Commissary of Military Stores may entrust you, are safely delivered and stored in the Arsenal at Albany. It is also expected that you will in every respect faithfully and diligently aid, and assist the Commissary of Military Stores, pursuant to his orders and directions in every particular in which it may be requisite to forward and effect the Execution of the Act aforesaid. You will herewith receive an advance of 100 Dollars on a/c of your services to be performed, pursuant to these Instructions and you will understand that no personal expenses in addition to the compensation above mentioned will be allowed or paid for you, and that you are from time to time untill further orders to advise me of your proceedings under these instructions and will proceed without Delay to the Execution of them.

THE GOVERNOR ACKNOWLEDGES THE PATRIOTIC TENDER OF TWO ORGANIZATIONS OF GENERAL VAN SCHAIK'S BRIGADE.

Albany, August —, 1807.

Sir: I acknowledge the receipt of your letters of the 18th and 21st July last communicating the tenders of service by Captain Bogart's Company of Albany Volunteers and Captain Smith's Company of Light Infantry, of your Brigade.

Such displays of Patriotic Zeal and military ardour do honor to the militia, and exhibit pleasing proofs that our Citizens are

ready to meet, with promptness the calls of their country in every emergency.

Be so good as to present my thanks to the Companies above mentioned and to assure them that I shall make a suitable representation of their meritorious conduct to the President of the United States.

Brig'r Genl. Van Schaick.

GOVERNOR TOMPKINS TO DAVID FORD REGARDING ARMS AND EQUIPMENT FOR ST. LAWRENCE COUNTY.

Albany, 7 Oct'r, 1807.

Sir: Your letter was handed to me last evening. The Secretary of State is alone responsible for his official conduct and as I have not an opportunity of conferring with any of the members of the Council of Appointment to become acquainted with the reason of their having directed the commission to be withheld, it would not be discreet in me to assume the responsibility of ordering it to be forwarded, in opposition to the directions of my predecessor and the Council. Should [you] transmit to me a statement of the grounds upon [which] your claim to the office is predicated, I will take the earliest opportunity of having it laid before the Council for their consideration.

I am not authorised to sell or distribute the arms and ammunition belonging to the State. The necessity, however, of placing within the reach of our Frontier Brethren the means of defending themselves in case of invasion, has induced me to incur the personal responsibility of forwarding a small supply to some of the most exposed places, the Inhabitants of which have become obligated by bond for their safe return into the

Arsenal and have transported them at their own expense; I have no objection to supply in your quarter upon similar terms as many arms and as much ammunition as a just regard to other parts of our frontier and the limited quantity belonging to the State will justify. As the Law has not provided any public fund out of which I can defray the expense of transporting them, it cannot be reasonably expected that in addition to the personal responsibility for the articles removed from the arsenal, I should also incur the Individual expense of conveying them to the several exposed points.

A supply of Field pieces which is daily expected from Georgetown and which will be principally deposited in the Arsenal at Albany to be from thence distributed amongst Artillery Companies, will enable me to furnish a company of Artillery in St. Lawrence County, and it will afford me great pleasure to convey a field piece, implements and powder to them as soon as I am assured that a regular company is formed, consisting of at least thirty men uniformed and equipped with muskets, &c.

David Ford, Esqr.

THE GOVERNOR TO MR. TERRY ON A MATTER OF LAW.

Albany, 16 Dec'r, 1807.

Sir: Your letter addressed to me in October was not handed to me until my arrival in this place with my family which is the apology for the delay of the answer.

You do not furnish me with sufficient materials for a precise answer because the nature of the action and pleadings is not specified and my memory does not supply the deficiency.

If the action were Debt upon the penalty of an arbitration bond and that penalty exceeded two hundred and fifty Dollars,

I am inclined to think the Plaintiff is entitled to Supreme Court Costs; and this would be the case although the damages were assessed by the Jury, upon assignment of the breaches of the condition at less than that sum. For in such action the obligee in form of law recovers the whole penalty and such is the Judgment upon the record; and the intervention of a Jury is for the purpose of liquidating the sum to be endorsed upon the execution to be levied out of the penalty so recovered. But if the action was upon an agreement without a penalty to submit to arbitration, or if it were an action of Debt upon the award adjudging the payment of a less sum than two hundred and fifty Dollars, in either of those cases the sum mentioned in your letter as recovered would not entitle the Plaintiff to more than Common Pleas Costs.

Your own lawyer is the proper person to advise you on this subject, and your remedy, if any, is by an appeal to the Supreme Court; my opinion cannot control the proceedings but I have thought it correct to submit to you my impressions in the matter conformably to your request.

Mr. Joshua Terry, Palmyra, Ontario County.

THE GOVERNOR'S DIRECTIONS FOR THE TREATMENT OF THE
BROTHERTOWN INDIANS.

Albany, 23 March, 1808.

Gentlemen: Your report relative to the affairs of the Brothertown Indians of the twelfth of February last, having been taken into consideration I have concluded to lay before you the measures which from that report and from other considerations appear to me necessary to be pursued by you, in performance of your trust.

It will be proper to proceed without delay to repair the Grist-mill in Brothertown, and to complete the barn already commenced, and to erect on such site as the Superintendants shall elect, as most convenient and eligible, a house two stories high and about thirty by thirty-two feet, or a few feet more in dimensions if the Superintendants judge the same best; and to complete the same as soon as can be done with economy and advantage for the residence of the Schoolmaster and his family, and for the reception and accommodation for board, lodging and Education and instruction in sober and industrious habits of the Indian children.

The Governor further instructs the Superintendants on or before the first day of June next, to pay and divide amongst the Indians, agreeably to their regulations and customs for distributing their annuity, the sum of One Thousand Dollars, and in addition thereto out of the unexpended monies in their hands from time to time to pay, furnish or expend to the said Indians or for their use such sums as in the opinion of the s'd Superintendants may conduce to their convenience and general welfare.

By an act of last winter, the Superintendants are authorised with the assent of the Governor and with the consent of the Stockbridge Indians, to sell or lease three hundred acres of their land on the Turnpike Road. The object of this provision principally, was to have convenient public houses for the accommodation of travellers. The Governor is not advised upon this subject as to the places which the said Indians will consent to have sold, or whether they will consent to have leased or sold such pieces of land as will accommodate the public Essentially *for the purpose of Taverns* and, therefore, cannot at present advise as to the proceedings under the last mentioned act.

The Superintendants are not to consider themselves limited to the objects above specified, but will proceed pursuant to law in all such further and other arrangements and proceedings touching the welfare, convenience and happiness of the said Indians as the said Superintendants may deem discreet and equitable.

GOVERNOR TOMPKINS TO JAMES WATSON IN REGARD TO THE
CANANDAIGUA ARSENAL.

New York, 9 July, 1808.

Dear Sir: If the sum of \$500 should prove to be less than the difference in price between a wooden and stone or brick arsenal by one hundred Dollars, and the Inhabitants should not make up that sum, I will in that event indemnify you therefor; that is to say, will allow \$600 Dollars for the difference, according to your impression that the sum of 600 Dollars will be ample you can proceed with a fire proof building without delay.

I am inclined to believe that 70 by 160 feet will be sufficient ground for our purpose, but if the width could be encreased 5 feet (making 75 wide) it would be preferred on account of its giving sufficient room for workshops &c., should the State hereafter authorise the building of them there; the quantity of land and the site however is left to your discretion which will be regulated by the practicability of obtaining more ground or a better site; if this cannot be done you will of course proceed on the site and with the quantity of ground mentioned in your letter.

I feel myself justified in placing confidence in your integrity, sufficient for confiding to you the money necessary for com-

mencing your operations, and accordingly have enclosed a check in your favor on the State bank for One Thousand Dollars, for which I will thank you to enclose to me a receipt as for so much money received for building a deposit at Canandaigua, under the act to provide for the defence of the Northern and Western frontiers passed 12 February, 1808. I enclose you a printed copy of the act. When the business is concluded you will render your account and vouchers and settle with me, and in the meantime any additional sum that is required will be furnished upon my being notified of it by you.

Dont forget to have a conveyance or lease of the ground for the site to the People of the State of New York and to advise me from time to time of your progress.

Mr. Jas. Watson.

A COMMISSION TO REMEDY THE EVILS OF THE SYSTEM OF THE COURT
OF CHANCERY.

New York, 9 July, 1808.

Sir: When I had the honor of handing you a copy* of the enclosed resolutions in New York it was my intention to have waited on you previously to your departure to know if you would consent to associate with a Justice of the Supreme Court and a respectable Counsellor, in devising a system of practice for the Court of Chancery.†

* Saturday, April 9, 1808. RESOLVED, (if the honorable the senate concur herein) That his excellency the governor be and he is hereby requested to employ one or more professional gentlemen, of competent learning and skill, to devise a system for remedying the evils experienced from the present course of proceeding in the court of chancery of this state; to the end, that the system, which may be so devised, may be submitted by his excellency to the consideration of the legislature, at their next session, at which time the legislature will make provision for the expense which may have been incurred in the premises.

† See page 147.

The importance of the subject induces me to hope that you will permit me to avail the State of your learning and experience in this business.

Having been so unfortunate as not to see you a second time before you left New York I take the liberty of enquiring by letter whether it will be agreeable to you to lend your aid in devising the system contemplated by the enclosed resolutions?

The Honble. Robert R. Livingston.

GOVERNOR TOMPKINS TO JOSEPH CLARK ANENT FEDERAL PATRONAGE
FOR JEFFERSON COUNTY.

New York, 25 July, 1808.

D'r Sir: I received your letter and apprised the Secretary of the Treasury of its contents, and he has proposed upon my expression of confidence in your recommendation to enclose to you a blank commission with permission for you to fill up the blank with the name of Mr. Massy or such other suitable person as you should think best.

The person to be named ought to be a man of sound political character and of unquestionable integrity. His education is not so material (tho' desirable) a qualification as a respectable character and firmness and probity. The evasions of the Embargo Law which are alledged to have been connived at in your quarter will enable any Gentleman who will accept the Commission and perform the duties with Integrity to establish his character with the Administration.

It will not be necessary to inform any of our friends of your having the Commission, or of your authority to fill the name, although without giving that information it may be very advis-

able to consult other persons as to characters suitable for the Appointment. I would merely recommend that you should if convenient consult Sheriff Keyes, Mr. Whittlesey the District Attorney, Mr. Hurd, Judge Beals, Mr. Stebbins, Col. Tuttle, Mr. Hubbard or any other steadfast friend of Mr. Jefferson's administration before you issue the Commission. Expedition in the business is highly necessary, and the idea you enforced upon Mr. Massy, that every friend of his Country ought in these critical times to contribute his services to the public, induces me to hope that you will not be displeased at the trouble which is imposed upon you in this matter. Permit me also to say, that as my assurances of your character and standing in Society, have perhaps in some degree influenced Mr. Gallatin to place this high confidence in you. My own character and standing with the Secretary of the Treasury will very materially depend upon the promptness, the fidelity and integrity with which this business may be conducted. Let me repeat that respectable standing in Society both morally and politically and acknowledged honesty are the material qualifications.

It is probable Mr. Gallatin will forward such advice and Instructions as will enable the new Collector to enter upon the duties of his Office without embarrassment, and to frustrate the Evasions of the embargo law with honor to himself and usefulness to his Country.

I shall not probably be in Albany until the middle of August.
Joseph Clark, Esqr.

P. S. Since writing the above Mr. Gallatin has sent me the enclosed Commissions, one for Collector and the other for Inspector; both Commissions are, however, to be filled with the

same name. I also send you his letter to me for your further information, and his note endorsed on the enclosure of the Commission. You need not hesitate or be secret in talking with the friends of the Government about a suitable person for the Office, but keep out of view only your *particular* authority to fill it. Let me hear from you as soon as possible as Mr. Gallatin is now in this City and very anxious to have this business compleated and he informed of it. The Oaths of Office you may enclose to him or me and we will see them filed in the proper place.

THE GOVERNOR SUBMITS A MATTER OF PATRONAGE TO MR.
HUNTINGTON.

New York, 25 July, 1808.

D'r Sir: Having written to the Comptroller to ascertain if he had unalterably made up his mind to decline advancing the money destined for Oneida upon separate bonds of the Commissioners, and having received for answer that he had so made up his mind, I am compelled by the tenor of your and Mr. Hart's letter to appoint new Commissioners. I have however been obliged to make the appointment without consulting the Gentlemen named, and have enclosed the appointment to you, which I trust you will excuse, after being informed of the reasons which induced it. In the first place: the public good requires that the appointment should be made without delay, and yet I am not sufficiently acquainted with all the suitable characters in the County who will accept the trust. In the second place: at the present time and under the circumstances now existing, I can only grant a conditional appointment which the Council at their first meeting, have the Power of revoking and this may

be a reason for those named by me to decline the appointment. Thirdly: New Commissioners may also be induced to decline, under an impression that the Citizens must be a second time troubled to make their applications for the money and produce their Evidences of title before the new Commissioners. And fourthly: the delay of diffusing the money amongst those in want of and entitled to it may be of serious importance to them. Now should you and Mr. Hart consent to give joint bonds for the present only, and loan out the money, much difficulty and Embarrassment may be avoided. By the next section of the Act you will perceive, that you may resign at the November Session of the Council and they must accept your resignation, or the Legislature may then make provision for separate bonds. If such provision is not made and you should conclude to resign at that time, no probable risque upon joint bonds can occur in the meantime, because neither principal or interest will be payable by that day and the Council could then make unconditional appointments of new Commissioners. Under these impressions I have enclosed the appointment to you in hopes and ardently intreating that you and Mr. Hart will reflect whether the accommodation and good of the public does not require that you should relinquish a point which cannot in all human probability be of any importance before November next, and serve till that time, in which case I request you to destroy the enclosed Commission. Should you, however, notwithstanding these considerations, determine not to execute joint bonds, I shall be greatly obliged by your enclosing and directing the appointment to either of the Gentlemen named in it.

The Honble. Henry Huntington.

THE GOVERNOR TO GENERAL DEARBORN REPORTING DEPTH OF WATER
IN UPPER NEW YORK BAY FROM ELLIS AND BEDLOWS ISLAND TO
LONG ISLAND.

New York, 27 July, 1808.

Sir: According to your request I have had the soundings taken between the Islands in this Bay and now enclose to you the result. They were made by Captain Brewster of the Revenue Cutter and one of his Officers in my presence and were accurately taken down by me. The Cutter was anchored in the middle, so that the Centre of the work erecting on Perkins' point, the Cutter and the house on Bedlow's Island ranged in a line. We commenced at Low water on the easterly side about 150 feet from the exterior wall of the Water Battery, in $4\frac{1}{2}$ fathoms water and made 28 Soundings across as nearly equidistant from each other as could conveniently be done to a point about 400 feet from the shore of Bedlow's Island. The several soundings made on that line are accurately detailed in the enclosed paper by the line marked A.

We then commenced in a line with the Southside of and about 500 feet from Bedlow's Island, and sounded in a direction with the Red Mills on Long Island, which ranged a little southerly of the most Southerly point of Governor's Island, and took soundings until we had crossed the deepest water in that direction. This is specified in the line marked B. We then began on the west line and sounded northerly in the direction of the Cutter until we had passed her in the same line about forty rods and found no greater depth than $13\frac{1}{2}$ fathoms. The last is designated by the dotted line. The result, therefore, is that the deepest water in any place within a Triangle formed by Governor's, Bedlow's, and Ellis' Islands may be considered $13\frac{1}{2}$

fathoms at low water unless it may [be] deeper in some hole or place in the bottom which our soundings did not cross. The difference in depth between ordinary low and high water is about one fathom and between ordinary low water and our fullest tides one and a half fathom.

In contemplating the heights of the blocks one fathom ought to be allowed in addition to the depth of water for the depression and settling of a heavy mass of matter in the mud or sand at the bottom, and if the blocks are to come to the surface in the highest tides an additional fathom at least will be required.

By sounding on a Northerly and Southerly line it was found, and I believe the fact is otherwise substantiated, that the water shallows as you proceed Southerly, and of course that a line of blocks from Bedlow's Island to Red Hook or from Oyster flatt, to a point on Long Island near to or Southerly of Red Hook, will be in less depth of water than between Governor's and Bedlow's Island.

I have remained in New York partly for the purpose of calling the Commissioners together, whenever I should be furnished with a description of the place of which the Cession of Jurisdiction might be required for the line of blocks and Chevaux de frise. This information I solicited on their behalf in May last and by this time you doubtless have all the requisite information upon which to predicate a decision. I have no doubt that within a few days after being informed of your decision upon the place the requisite cession will be made by the Board.

I am also unofficially informed that in any event the acquisition of the title of Red Hook either for the purpose of being reduced or of erecting a fortification thereon will be desirable. But without the requisition of the President or yourself I am not

authorised to proceed to a purchase or to the process prescribed by law in the event of not agreeing with the owners. Your direction upon this subject is also requested.

In case you fix upon Red Hook as one end of the line of blocks, I am willing to commence the expenditure there of the \$100,000 Dollars appropriated by the State. If, on the contrary, you fix upon the line between Governor's and Bedlow's Island, I am willing to spend it in aid of that system; and should you select a line more southerly than either, I am willing to commence immediately with our appropriation the protecting work on the Easterly end of such more southerly line. At any rate I shall be greatly obliged by being informed as soon as possible of your final determination upon the place for the blocks, that I may convene the commissioners to make the necessary cession of Jurisdiction and that I may then proceed northerly where the Frontier arrangements will speedily require my presence.

The little plan enclosed does not accurately shew the relative position or distance of places but was merely designed to make the relation of the soundings more intelligible.

The Honble. Henry Dearborn.

THE GOVERNOR TO PRESIDENT JEFFERSON REGARDING VIOLATIONS OF
THE EMBARGO AT OSWEGO.

New York, 22 August, 1808.

Sir: Soon after my letter relative to the proceedings at Oswego* was dispatched I received communications from that quarter which induced me to anticipate your answer, and I accordingly issued orders for a Detachment of militia to be stationed at that place and its vicinity. Col. J. W. Livingston,

* See Tompkins Papers, Vol. I, pp. 17, 30, 194-97, 207-9.

formerly a Captain in the U. S. Artillery, and one of my Aids, has proceeded to Oswego to convey and Superintend the Execution of those orders. The troops will be stationed until the twenty-fifth of September. A similar order was issued by me in June for a detachment to be stationed on the New York side of Lake Champlain, but the state of things having changed before the arrival of the orders, the same according to a discretion vested in the officer to whom they were addressed were not executed.

Mr. Hart Massey of Jefferson County has accepted and qualified to the Office of Collector of the District of Sacket's-harbour. The proceedings of the former Collector have produced such a situation of affairs in that part of the State that I have no doubt he will need military assistance to enable him to check the evasions of the Embargo Laws which according to rumour seem to have proceeded theretofore at that place without suitable resistance by the Collector or his assistants.

The detachment necessary to give the requisite aid to the Collector at Oswego will not be more than one fifth or perhaps one tenth of the number mentioned in your letter with which I have just been honored.

There are three companies of regular troops in and near this city which are filled or nearly so. Captain Townsend's company of Light Artillery is complete; Captain Cock's of the Infantry has upwards of forty recruits, and Captain Brooks upwards of thirty and both will probably be filled in a week or fortnight. Whether it would be proper to station part of them near the frontiers upon the above service can be best determined by you. Should such an arrangement be consistent with the situation of our foreign affairs it would obviate the extraordinary expenses

which will be incurred and the commotion which is excited by detachments of the Militia.

It is desirable that some competent legal character should be sent to those places where violations of the Embargo Laws are most frequent for the purpose of assisting the Collectors with advice and collecting and forwarding the requisite Testimony to convict the Offenders in the Courts of the United States. I am persuaded a few prosecutions and convictions would have a greater tendency to make the laws respected than the appearance of a military force.

As soon as Mr. Gallatin who is now at New Haven returns I shall consult with him and adopt such proceedings relative to Sacket's-harbour and Oswegatchie as may appear lawful and necessary.

Thos. Jefferson,

P. U. S.

THE GOVERNOR OPENS NEGOTIATIONS FOR THE PURCHASE OF RED
HOOK AND SO REPORTS TO GENERAL DEARBORN.

New York, 30 August, 1808.

Sir: Pursuant to the request in your last letter I have attempted to negotiate with the proprietors of Red Hook for the purchase of a part or the whole thereof.

Previously to their making a proposition as to the price, a survey was required which I have had made accordingly and enclose the result for your information. The proprietors have a Dutch Patent extending to Low Water mark, but the survey extends only to high water mark; of course upon a liberal allowance for the quantity of Ground between high and low water mark, the Island may be fairly estimated to contain 33 acres. For this quantity the proprietors demand Seventy-nine

Thousand Dollars, subject to a Lease of John P. Haff, for about One acre, with a powder magazine, which he informs me yields a nett income of Twelve hundred Dollars p'r year, and that, therefore, the extinguishment of his Leasehold Interest, may be calculated according to his ideas at Sixteen Thousand at least. So that the Island within the line dotted with red Ink, including two dwelling houses and appurtenant buildings, and the Magazine according to the proposition of the proprietors, will cost about ninety-five Thousand Dollars.

The second proposition related to my application for that part of the Island only which would be indispensable for fortifications, embracing the part westerly and northerly of the line dotted with black Ink, comprehending about 18 acres, for which they require Sixty Thousand, and which will then be subject to Haff's Lease, estimated at Sixteen Thousand more, making in the whole Seventy-six Thousand Dollars.

It is difficult to determine what would be the price which would be allowed by a Sheriff and Jury, although I cannot believe that it would amount to more than half the price demanded by the owners.

I have mentioned to Col. Williams the result of my negotiations and expect that he will furnish you with his ideas of the actual value. Any directions which you think proper to give me, after deliberating upon this information will be promptly attended to.

The Honbl. Henry Dearborn.

GOVERNOR TOMPKINS CALLS UPON JUDGE VAN NESS FOR A REPORT OF
ALL CONVICTIONS IN DEATH CASES.

New York, 12 Sep'r, 1808.

D'r Sir: I received your letter and am happy that my conjectures proved correct. I presumed from your not reporting

the case that you were satisfied with the conviction and accordingly declined granting a respite. I would, however, remark that it is customary for Judges to report all cases where death is the punishment as well where they are satisfied with the verdict as where they are not. This is frequently done in the first instance by a concise statement of the Judge's opinion, leaving the report of the Testimony and charge at length untill requested; and it is also customary and deemed the duty of the Judges to report all convictions of felonies before them on the Circuit. I received Judge Thompson's report of convictions on the Northern Circuit upwards of a month since. And I would refer you to him for the form of his last report as a concise one, occasioning very little trouble to the Judge, and yet sufficiently copious for a General report. You will excuse the liberty I take in suggesting this duty to you, for as it is not prescribed by any particular Statute but depends on practice, I was not apprised of it until after my first Circuit, when Governor Lewis suggested it to me and called for a report of convictions before me on that Circuit. You will therefore do me the Justice to believe, that as no report has been received of the convictions had before you as Judge, except in the special case of Williams, I presume you have not been apprised of the practice and that motives of friendship and respect induce the mention of it on this occasion.

The Honbl. Wm. W. Van Ness.*

* William W. Van Ness, jurist, born in Claverack, N. Y., in 1776, died in Charleston, S. C., 27 Feb., 1823, was admitted to the bar in 1797, practised in his native town and in Hudson, N. Y., was a member of the assembly in 1804-6, and the leader of the Federalist party. He was appointed a judge of the supreme court in 1807, and held office till 1822. In January, 1820, he was tried before a committee of the legislature on the charge of using his office to obtain the charter of the American bank. The trial was conducted with great ability, and Judge Van Ness was acquitted, but he never recovered from the effects of the charge, and fell into delicate health. He retired from the bench in 1822, under the act of the Constitutional convention of that year, and resumed the practice of law. Dr. Jabez D. Hammond says of him: "He was one of the shrewdest and most sagacious men whom New York ever produced, of fascinating manners, and remarkable conversational powers."

THE GOVERNOR DESCRIBES MINUTELY THE MILITARY SITUATION IN
THIS STATE TO GENERAL JAMES WILKINSON.

New York, 12 Sep'r, 1808.

Sir: On Saturday evening I was honored with your letter of the 5th Inst. with its enclosures. I shall take pleasure in affording my instructions, advice and assistance in relation to the service upon which the troops recruited in this State are destined by your orders as the disposition of them may essentially depend upon a variety of circumstances which it is in my power to detail, and as your answer thereto may be received before the New York companies will be prepared to depart and before there will be an absolute necessity for their leaving this place, I take the liberty of communicating for your information the following particulars:

The District of Oswego comprehends in width the shores of Lake Ontario from near Sodus Bay on the South west to Salmon Creek on the North East. At the port of Oswego a disposition to make violent resistance to the Execution of the Embargo Laws was manifested in July last upon which a company of Militia was stationed there until the twenty-fifth of August by the direction of the commandant of the neighboring Regiment. That Detachment was relieved by my orders with another of one hundred men who will remain in service until the 25 day of September inst. Col. John W. Livingston, one of my Aids, has been dispatched to superintend the execution of General Orders at that place. I transmit a copy of his first report to me specifying the force adequate to preserve the execution of the laws and its best arrangements. My acquaintance with the Port of Oswego and the shores of the Lake in its vicinity induces me to believe that the opinion of Col. Livingston relative to the num-

ber and disposition of the Troops competent to maintain subordination in that quarter of the State may be relied on as prudent and accurate. You will please to regard his report as confidential, and communicated for your perusal only.

The District of Sackets Harbour embraces in width the shores of Lake Ontario and the river St. Lawrence from Salmon Creek on the south to the Canada line on the north. A company of Regulars referred to by Col. Livingston under the command of Lieutenant Cross, have arrived at that District and will be able to accomplish the object of their destination until a reinforcement arrives. In the Champlain District, comprehending Plattsburgh I have ordered a detachment of Militia and have dispatched Col. Rodman, one of my Aids, on that expedition. Sufficient time has not elapsed to enable him to make his report and until he does, I cannot inform you whether *one* or *two* companies will be detached. He was furnished with two sets of General Orders, the one for two companies and the other for one, and vested with discretion after ascertaining the complement necessary to give effectual aid to the Collector to deliver to the Brigadier General that order which the emergency might dictate. The detachment is to remain on duty for 30 days after their arrival at the place of rendezvous, so that the District of Champlain may be considered as supplied with the necessary military force until about the 10th of October next.

Captains Townsend, Cock and Brooks were by orders from the War Department instructed to recruit fifty men respectively. This has been done and, therefore, unless orders for recruiting beyond that number are to be issued, I presume your direction to leave a subaltern Officer to keep open a Rendezvous, is not intended to apply to them, or to other Officers who have their

compliment of fifty men. It is certainly desirable that the recruiting service should be interrupted as little as possible, and I, therefore, trust you will pardon me for suggesting an arrangement which according to my present impressions is best calculated to promote the object for which the Troöps have been ordered to march and at the same time to produce the least suspension or interruption of recruiting. By the map of this State which, by the politeness of the Secretary of the Treasury, I am enabled to enclose you, and from which you can Judge of the propriety of my proposed disposition. You will discover the relative positions of the recruiting Rendezvous within this State and their situation with respect to the places at which the services of the troops are required.

I. One of the New York companies or Capt. Anderson's of Albany (if nearly filled) might proceed to Lake Champlain to take the place of my Militia Corps early in October; Capt. Cross of Salem in Washington County, might be directed in the meantime to press the recruiting service and hold himself in readiness to march at a moment's warning. Under this arrangement he might remain recruiting until one company should be found inadequate to sustain the collector in the performance of his duty upon such an emergency. The vicinity of Salem to Lake Champlain would enable Capt. Cross to transport his men and equipments to their assistance in less than five Days, by water and in about the same time by land.

II. Two of the New York companies might proceed to Sackets harbour and Oswegatchie to reinforce Lieut. Cross. Those companies united with Cross' detachment will be amply sufficient, and not more than sufficient to enforce respect to the laws in that District. The evasions of the Embargo laws have pre-

vailed principally in that Direction and as the former Collector has resigned and a new one entered upon the duties of his office it is to be anticipated that the most formidable exertions will be made to intimidate the new Collector and to persist at all events in a continuance of those violations.

III. The County of Oneida joins the Oswego river on one side and the County of Onondago on the other. Capt. Cherry is recruiting in the County of Oneida and in all probability, has nearly his complement of Men. He can therefore with his Men repair to Oswego and also one New York company (or Capt. Andersons, as the case may be), which two companies according to the opinion of Col. Livingston, will be ample to compel a respect to the laws there. Capt. Bennett at Cayuga, and Capt. Rose at Cooperstown may remain at their respective recruiting Rendezvous until their services are needed at Oswego, when the former can in 48 hours, and the latter in 5 days join the troops at Oswego. The Detachments at Oswego, Sackets harbour and Oswegatchie may, and ought to act in concert, and be under one command, but that which is to repair to Lake Champlain cannot be conveniently under the same officer. The communication by mail between the two places is through Albany, and only once a week, and either of them can as speedily advise you at Philadelphia of any occurrence and receive as early an answer as he can the commandant on the opposite frontier. The latter detachment might, therefore, safely act distinctly under the qualified command of General Woolsey, the Collector, who has been a respectable revolutionary Officer and a General in the militia of the District of Champlain. Should it be possible to station a Field Officer in Albany, who might keep up a regular correspondence with both detachments, and who would apprise

yourself and me constantly of the proceedings both on the northern and western frontier and of the aid necessary to be furnished from time to time, the public service would be greatly promoted.

If it is not convenient to assign to such station a field officer, then I would take the liberty of suggesting, that if there be no violation of rank in the following disposition of officers, the question of rank may for the present be disposed of by Orders. Captain Cherry, before his appointment, was a major in our militia and I believe has held a commission in actual service, and is upwards of 40 years old. Captain Townsend, was a Captain in the New York Artillery. Captn. Brooks was a captain in the Common Militia and Capt. Cock, I know, never before held a military commission and I believe Capt. Anderson is in the same situation and they are all young men. Until their commissions are issued, the dates of which may decide the question, it appears to me that age & former superior commission, experience and rank, ought to have influence in giving precedence in rank on the duty contemplated by your orders, and, therefore, according to the above proposed arrangement, Captain Cherry ought to have the command on the western frontier; Captain Townsend be second in command and Brooks third, the one at Oswego, the second at Sackets harbour, and the third at Oswegatchie. Capt. Cherry having been an Inspector of the Brigade in Oneida and Teacher of a military society in Onondaga County, which Two counties compose nearly all the Oswego District, he will be more likely to be respected in that quarter and especially will be enabled to produce greater harmony between the common militia and regular Troops when acting in concert, since the

former have been in the habit of obeying and respecting him as a military Officer and instructor.

Captain Cock & Capt. Anderson as I believe being unacquainted with military duty before their respective appointments will, most beneficially for themselves, their Officers & the public, be stationed, the one under General Woolsey, an experienced revolutionary Officer, and the other with Capt. Cherry, who is a good disciplinarian & acquainted with service. This proposition will not be construed into a reflection upon those officers when it is considered that Captain Cock and most of the other officers included in the remark are my particular acquaintances and friends, are intelligent, ambitious Young Gentlemen of liberal education. But it appears to me that the ardour and ambition of youth in the first Tour of active duty may be most beneficially regulated and directed by more aged, prudent and experienced officers. In case it should appear that Rose and Bennett have each recruited about 25 men, those men might be ordered to join Capt. Cherry at Oswego and with his recruits would be sufficient for that place & then it would be advisable to leave one New York Company stationed near Albany, which is the dividing point of communication between the Northern and Western frontier, so that upon a pressure they might march to the point of stress in either direction. If no Field Officer is to take command or be stationed at Albany and the Troops are to be subject to my instructions, it would oblige me if you will in orders direct the officers to keep me regularly advised of the proceedings and occurrences in the respective Districts.

You will perceive that by the above disposition of the five companies which are complete or nearly so there will be no

interception of the recruiting, until some unexpected emergency should require orders for the incomplete companies to repair to the point at which assistance becomes necessary, and in such case the companies from which no returns have been received are so situated as to afford relief to the Western or Northern Detachment upon very short notice.

I trust you will pardon the minuteness of this letter when you reflect that my motives are to furnish such information as will enable you to give further and more minute directions to me & to the Detachment.

Since writing to the President advising him to station regular troops towards the Frontiers, I have found it indispensable to provide sufficient militia Detachment for Oswego & Lake Champlain and the arrival of the Detachment of Regular Troops at Sackets Harbour diminishes my anxiety about the Execution of the laws at that place. These occurrences with which you were probably unacquainted, will I trust be regarded as a sufficient apology for postponing the march of the New York companies for a few days, but in the mean time, I have directed the captains to equip and prepare themselves to depart in One hour after receiving your answer to this communication, and should I be advised by our Officers on duty or the collectors before the receipt of your further instructions of any event which renders it necessary, I shall avail myself of your present orders to direct the companies to march immediately.

Permit me to assure you, that I shall feel great satisfaction in executing your present or any future orders and instructions upon this subject which you may think proper to confide to me.

Genl. James Wilkinson.

THE GOVERNOR'S AIM FOR DISINTERESTEDNESS IN SUGGESTIONS TO
GENERAL WILKINSON.

New York, 13 Sep. 1808.

Sir: Since depositing my letter of yesterday in the mail, Capts. Townsend, Brooks and Cock have shewn me second orders by which their stations are designated and their rank established. Under these circumstances it is not my desire that my observations in the former letter about the station or rank of the Officers should have any operation to change your arrangements.

Capt. Brooks has not received cloathing or arms for his company, but expects them daily. Upon receipt of the other equipments, his departure need not be longer delayed as he may be supplied at Albany with muskets from an arsenal in which the United States have several Thousand in good Order. Capt. Cock is supplied, but the muskets are of an inferior kind and totally unfit for service. The Bayonets are attached to the barrel of the musket but are so miserably sodered or fixed, that a man may detach every bayonet from the gun by the strength of One hand. It would, therefore, be advisable that he also should have the liberty of exchanging them at Albany for arms which are suitable for the duty upon which the recruits are ordered. Cock & Brooks have indifferent music. They can supply the defect by hiring at the same rate of wages as enlisted musicians if that measure would be sanctioned. Altho' by the tenor of your last Orders, which have been shewn me by the Captains, it might be considered officious for me to give any instructions upon the subject, yet when I observe that your last arrangement is predicated upon the information of the Secretary of the Treasury, and as the measure which I have advised

is after consultation with him and meets his approbation, I hope you will pardon the interference. Brooks not being supplied with arms and neither his or Townsend's presence being indispensable at Lake Champlain immediately, we have advised their continuance at Albany a few days, but Cock being ready he is advised to pursue your last Orders immediately by transporting his company with the others to Albany and there wait but a few days for further Orders. This delay at Albany arises from a coincidence in opinion between Mr. Gallatin & myself that according to my impressions expressed in the former letter, the more young, ardent and inexperienced officers should be farthest from the Canadian line, and the most experienced nearest to it on account of our delicate situation with our Canadian neighbors and on account of the peculiar prudence, caution and circumspection necessary in enforcing the execution of the embargo Laws there to the greater satisfaction of our citizens and to the reputation of the Officers and Soldiers of the regular corps.

I feel it incumbent upon me to repeat that my observations relative to rank were not dictated by favour or personal considerations, which you will readily allow when I inform you that Capt. Cock was appointed upon my recommendation and that he and his brother (orphans) have been under my guardianship from their infancy and their property to the present day has been managed by me. Under these considerations of partiality towards him and my regard for his officers, who are my acquaintances, all of whom are under twenty three years of age as I believe, I trust you will deem my suggestions upon the subject as proceeding from disinterested and proper motives and intended solely to promote the public good, and at the same

time advance the popularity and satisfaction of the regular troops under your command.

Genl. James Wilkinson.

THE GOVERNOR'S INSTRUCTIONS TO CAPTAIN COCK.

New York, 21 Sep'r, 1808.

Sir: By advice of the Secretary of the Treasury I have to request you to proceed with your Company Westward as far as Utica as soon as you are in readiness to march. I hope you have all things arranged for your accommodation & convenience on the road.

At Utica you will receive further instructions for which you will wait there. Should you find upon enquiry that the road from Johnstown is the most convenient and direct to Sackets harbour, you will stop there or near it a short time and duplicate Instructions will be directed to you there.

Col. Simonds leaves Philadelphia on Thursday for this city. It will, therefore, be well to drop a letter on the receipt of this directed to him at New York advising him of your movements and also General Wilkinson. I shall be happy to hear from you.

Permit me to repeat the necessity of a careful adherence to the advice which I have given you relative to the deportment of your company on the road. On my return from New Haven, which will be about Sunday next I shall address you again and furnish you with letters of Introduction at the place to which by ultimate orders you will be destined.

P. S. Capts. Townsend & Brooks may remain in Albany or near it until further orders.

Capt. Wm. Cock.

THE GOVERNOR GIVES SOLDIERLY INSTRUCTIONS TO THE THREE CAP-
TAINS ORDERED TO LAKE CHAMPLAIN.

New York, 15 Sep. 1808.

Gentlemen: Pursuant to the request of General Wilkinson, I take the liberty of offering to your consideration the following advice relative to the duty upon which you and the companies under your command are destined by General Orders of the 5th & 7th Inst.*

You ought without an hour's delay to prepare for your Journey and embark on board the sloop Atlantic, Capt. Winslow for Albany (which vessel has been chartered by Capt. Whiley for the purpose) by Saturday of this week. You will remain at Albany a few days for further Orders from your General, or for additional advice from me. Upon the receipt of such further Orders or additional advice you will repair to the several stations assigned you without a moment's delay. To prevent procrastination you are to take measures upon your arrival at Albany to have your camp equipage and other equipments and the arrangement for the conveyance of them in such a state of forwardness as to require no delay upon the receipt of further orders or advice. When on the Journey you are to conduct and are strictly charged to see that your officers and men demean themselves with the greatest decorum, civility and propriety, avoiding every species of disrespect, rudeness, insult or Trespass to the Inhabitants of the Country thro' which you pass.

On your arrival at your respective stations a very delicate and responsible duty will devolve on you. Firmly to sustain the collector in the Execution of the laws and at the same time to

* Tompkins Papers, Vol. I, pp. 207-9.

avoid giving any uneasiness or offence to the peaceable Citizens of the State, is a task requiring no ordinary share of vigilance, prudence and circumspection. Difficult as the task may be, it ought ever to be the pride of a good officer to perform his duty strictly and firmly, but politely and without a particle of moroseness, or ostentation of power. By a discreet exercise of moderation, circumspection, prudence and firmness resorting to force only where persuasion and caution prove unavailing, you will meet with little mortification or difficulty. It is also incumbent on you to avoid as far as may be consistent with your orders and duties, any expression or conduct which may justly be construed into disrespect to, or excite irritation, offence or alarm in our Canadian neighbors. And more especially you will regard and pay great deference to the civil authority.

You will advise me until a field officer may be placed over you, constantly and regularly of any important movements, occurrences and events within the limits of your station.

To prevent any unnecessary altercation about precedence or rank on your Journey to and during your continuance at Albany, each company will be considered distinct from the other and be under the separate command of its own Captain except in emergencies when it may be necessary to act in concert in which cases only, until further Orders, will rank according to the arrangement specified in General Orders of the 7th Int.

Your encampment at Albany will afford an excellent opportunity for perfecting your several companies in platoons, company and Battalion movements and exercise, which opportunity ought not to pass unimproved.

Until further provision Ensign Charles K. Gardner, will act as Surgeon to the three companies, with such assistance in special cases as the respective Captains may advise and require.

The complaints in this City which have been noticed of the interruption and umbrage occasioned by conducting the Inspection of Companies on the Sabbath with too much publicity, will be a sufficient caution to pay suitable respect to the feelings and opinions of the community in the performance of that duty on your march and at your stations.

Sincerely wishing you an agreeable journey and much happiness, satisfaction & reputation in the discharge of your important trust,

To Captains Cock, Brooks & Townsend.

COLONEL LIVINGSTON NOTIFIED THE TROOPS ARE ON THE WAY.

New York, 21 September, 1808.

Dear Sir: I have received your several communications which are perfectly satisfactory. The regular Troops are on their way to relieve the Detachment at Oswego and other stations. It is uncertain when they will arrive. If they should not be at Oswego before the 26th, I will thank you if possible to prevail upon the Detachment or a part of them to remain on Duty for a few days until the arrival of the regular companies. Three companies recruited in this city are now at Albany and the companies recruited to the Westward are under marching orders. Col. Simmonds of Pennsylvania leaves Philadelphia tomorrow to proceed after them and have the command. Wishing you health & a safe return to your family & friends,

Col. J. W. Livingston.

THE GOVERNOR EXPLAINS WHY THE GOVERNOR ALONE CAN CONSTITUTIONALLY COMMISSION MILITARY OFFICERS.

New York, 21 September, 1808.

Dear Sir: It is not very easy to decide promptly and accurately upon all the points submitted by your letter of the 10th Instant.*

With respect to the certificate of the election of a Member of Assembly for Niagara, your advice to the clerk was perfectly accurate: that is, to state the case specially. Any threat of prosecution for such proceeding ought to be regarded as an idle threat not worth notice. The Legislature will give a Seat to that Member who has a majority of votes & even if there were no Clerk of the County and it should be ascertained from the certificates to be lodged in the several Town Clerks Offices that a particular person had a majority of votes the Legislature I have no doubt would give that person his Seat upon that Evidence alone.

*James W. Stevens to Daniel D. Tompkins—Batavia, Genesee County, Sep. 10, 1808. His Excellency Daniel D. Tompkins Esquire.

Dear Sir, In consequence of some irregularity in the Secretary's Office respecting Military Commissions some disturbances have been produced in the County of Niagara by the persons intended to be commissioned for that County who have conducted themselves in a very insolent and abusive manner towards the Clerk of that County in consequence of his refusal to receive their qualifications and to deliver them their Commissions. In this embarrassment he has written to me stating the circumstances of the case and soliciting me to advise him what line of conduct he ought to pursue in this emergency.

He informs me that he had received from the Secretary's Office a number of Military Commissions for persons now residing in the County of Niagara issued under the signature of Morgan Lewis which except one have not passed the Secretary's Office or rather the blanks of that part of the commissions though signed by the Secretary are not filled up which created a presumption that these Commissions have never been recorded. He also informs me that he has received some military Commissions made out under your signature for the county of Genesee but for persons now residing in the county of Niagara which I suppose at the time these Commissions were made out was part of the county of Genesee. I have stated to him as my opinion that he cannot legally receive the qualifications of persons thus commissioned because he has no right to officiate as clerk of the county of Genesee and because I conceive that those commissions not having passed the Secretary's Office are in their present form void. I have also informed him that if the qualifications of such persons can legally be received by any persons those persons must be the clerk or judges of the county of Genesee, and in that case the persons thus commissioned could only act within the present limits of the County of Genesee. I have

But in this case I should advise the Clerk to pursue the course you have pointed out to him.

As to the Military Commissions, there is some difficulty upon one ground, namely, the mention of Genesee County in some of the Commissions for persons resident in Niagara. The reason of this Mistake has undoubtedly been, that the returns were made before the County was set off, and as we were very uncertain whether the Bounds of the Regiments and Battalions corresponded with the limits of the Counties, we were reduced to the necessity of either omitting to make the appointments or of making them upon the best information we had, which it is very reasonable to suppose was not very accurate. It would, therefore, be desirable that a memorandum of these mistakes, together with such Information as will enable us to rectify them, should be forwarded to the Council at the November session of the Legislature, when they will cheerfully rectify them, and give rank to the several officers from the Date of the Erroneous

advised the Clerk of Niagara County not to receive the qualifications of the persons thus Commissioned but to transmit those Commissions to me and I have informed him that in the mean time I would write to your Excellency on the subject.

In order to remove the difficulties & contentions which are likely to prevail in consequence of these irregularities I would solicit your Excellency to advise me what is best to be done. Whether the Clerk of Niagara County or the Clerk of Genesee County or neither of them can act legally in cases of this kind or whether it will be proper for me to return those Commissions to the Secretary's Office in order that they may be either rejected or modified in such a way as to enable the Clerk of Niagara County to receive the qualifications of the persons thus Commissioned and to authorize those persons to act in that County.

Some contentions have likewise taken place in Niagara County respecting their member of Assembly and the Clerk of that County has in consequence received some abuse. The *Dedimus Potestatum* for that county having been omitted the Clerk was not authorised to act at the time the returns of the late election were made to him and the returns consequently could not be made within the time limited by law. It is now contended by the party opposed to the prevailing candidate that his Election is void and that he will not be permitted to take his seat in the Legislature. The Clerk has been threatened with prosecution in case he should furnish this candidate with a certificate of his Election &c. I have however recommended to him to state the case specially and to submit to the decision of the Legislature at their next session. But whether this is the proper line of conduct for him to pursue I refer to your Excellency to decide and your decision I presume will moderate the violence of the contending parties.

I have the honor to be with great respect, Your most Obedient and very humble servant,

James W. Stevens.
clk. of Genesee County.

Commission. If they should decline waiting for that proceeding, I am doubtful at the present moment what course to advise the Clerk to pursue. Perhaps the one pointed out by you is the safest.

But with regard to the circumstance of certain Commissions signed by Governor Lewis not appearing to have passed the Secretary's Office at any particular date, I incline to the opinion that it is not a material circumstance.

The Governor has the sole controul of the Privy Seal with which Military Commissions are sealed and He by the Constitution is to Commission all Officers.

When, therefore, a Commission is duly sealed and has the Governor's Signature, it appears to me it has all the requisite solemnity to give it validity and authorise the Clerk to qualify the person named in it; provided, there be no objection to such qualification arising from other circumstances; such for example as its purporting to be a Commission for another County.

You will also perceive by the Act of 20 March 1801 (1 Vol. Laws N Y page 203 & 204) that papers issuing under the *Great Seal* are alone required to be entered of record in the Secretary's Office.

James W. Stevens.*

THE GOVERNOR TO COLONEL SIMONDS RESPECTING THE SITUATION
ALONG THE FRONTIERS.

New York, September 26, 1808.

Dear Sir: In pursuance of the authority and request of General Wilkinson, I take the liberty of suggesting for your con-

*James W. Stevens, County Clerk of Genesee County, April 4, 1803, to March 7, 1810.

sideration the following ideas relative to the disposition and duties of the detachment of regular Troops destined by General Orders for service on the frontiers of this State.

For the Champlain district, I would advise that Captain Townsend's Company of Light Artillery be stationed at or near Champlain in Clinton county.

That Captain Brooks's Company of Infantry be stationed at the same place or at Plattsburgh or at some convenient point between Plattsburgh and Crown point. That Captain Cross's recruits be stationed under two of the Officers of his Company at some proper position at or near South Bay in Lake Champlain. And that the other two Officers keep open the recruiting rendezvous. The positions at which the above companies may be most beneficially placed can be more judiciously determined upon by General Woolsey. One of my Aids, is now in that quarter with a detachment of militia.

I have directed him upon examination and consultation with General Woolsey, to report to me the force adequate to sustain the Collector and the most Judicious arrangement and disposition of such force. His report on this subject will be received before it will become necessary for Captains Brooks and Townsend to relieve my Militia Detachment, and it shall be immediately communicated to you for your further information upon that point. Upon your arriving at Champlain district, in your tour through the frontiers, you will be best able to ascertain the best method of stationing the three companies who are to repair to that quarter and will, therefore, then act in that particular according to your own Judgment without considering yourself in the least controuled by my present remarks.

With regard to the Western frontier I would advise that Captains Cherry & Cock with their respective companies should

be stationed at Oswegatchie in the County of St. Lawrence, That Captain Bennett with his Company should repair to Sackets Harbour in the County of Jefferson, to reinforce a detachment already there under the command of Lieut. Cross, and that Capt'n Anderson's Company should march directly for Oswego. This arrangement leaves Capt'n Rose's Company of Light Dragoons undisposed of. He may, therefore, be directed to press Recruiting service until he has obtained his complement of men and measures may be taken in the mean time to have the equipments for his company in a state of readiness. When his company is complete, I would advise you to direct them to march to Utica or Albany and remain there as a reserve to be dispatched by you upon any emergency either to the Northern or Western frontier.

With respect to yourself, it will undoubtedly be agreeable to you and I would advise your visiting in the first place the several stations above referred to, commencing with Oswego and proceeding thence to Sackets Harbour & Oswegatchie, and from thence crossing by Land to Lake Champlain, if it be convenient and if not to follow the St. Lawrence to the outlet of Lake Champlain, and from thence to Plattsburgh by Water. From the latter station you can proceed to Albany, where according to my present impressions will be the best position to communicate and receive with the greatest expedition information to and from your several officers.

Should you, however, be of opinion after performing the circuit that Utica will be a more eligible spot for your position it will be equally agreeable to me.

I submit to your Judgment, whether the Company of Light Dragoons kept in reserve ought not after leaving their recruit-

ing rendezvous, to repair to that station at which you fix your headquarters?

Besides the benefit they will derive from being under your own Eye, with respect to Information and discipline, they may act as Expresses between you and the different stations as occasion may require and will be able more promptly to fulfill your orders, whenever an emergency in either direction may require their march to the point of stress.

The delicacy of the service which the Troops are to perform, both as it respects the suspicion which may be excited in our Canadian neighbours, and the peculiarities of the Duties incumbent upon the military, induces me to believe that it will not be advisable to place them under the unqualified controul of the respective collectors; some of whom are not military men, and have but recently commenced the duties of their civil station. I beg leave, therefore, to recommend that your orders should explicitly define the powers of the military officers and point out their duties with regard to the support of the collectors, and Enjoin upon them a Diligent and prompt attention to the performance of those duties; and it might be well to furnish the collectors with a copy of your instructions, to the end that they should call for military aid in such cases only, as the instructions of the officers enable them to afford it.

In his last letter, General Wilkinson informs me that revolutionary service, does by existing regulations, Establish Seniority in all similar grades without appeal. Capt'n Cherry, having as I am Informed and believe, held a Commission of Lieut. in the American War, under this regulation is entitled to Seniority. Captain Bennett is the only one who has drawn elder than Capt'n Cherry. By changing these two, and placing Cherry and

Bennett second, I presume no further interference with the Rank established by the ballot at Head quarters will be necessary or proper.

It will be proper to advise James Byers, Jr. of Springfield, Massachusetts, of the necessity of furnishing rations at the several stations. Or to see if possible his agent at Albany on your journey to the Westward.

A copy of my letter to Capt'n Cock and of my Instructions to the Captains who recruited in this City are annexed for your further information.

Col. Jonas Simonds* N York.

THE GOVERNOR'S IDEAS RELATIVE TO THE AUTHORITY OF THE
MILITARY IN COOPERATING WITH THE CIVIL AUTHORITIES.

New York, 28 Sept'r, 1808.

Dear Sir: Not having been informed of the powers and duties which were intended to be vested in and performed by the Detachment of Regular Troops which is to be stationed on the frontiers of this State, I feel some hesitation in the responsibility of pointing them out. But as it is necessary that you should depart for Albany before further Instructions can be received from the seat of Government, and as it is proper that you should be relieved as far as possible from perplexity and embarrassment, the following principles are suggested as the result of my present impressions upon that subject.

The Collectors and their subordinate officers are the only persons who are authorized to execute the Revenue and Embargo Laws. But when their endeavors to perform their duty are

*Colonel Jonas Simonds, commanding Sixth United States Infantry.

resisted, that resistance ought and must be overcome. For this purpose I presume the military detachment has been ordered to the frontier districts. It appears to me, therefore, that the Detachment will until further orders be limited in relation to the Embargo laws to the following duties:

1st. To support the Collector and his subordinate Officers in their attempts and endeavours to search, detain, or seize vessels or property contravening the Embargo Laws.

2nd. To repel and suppress by force, if necessary, any armed or violent attempt of Individuals or unlawful combinations of men to intimidate and assault the Collector and his Officers in the execution of their duty, and to resist and prevent the destruction, rescue or forcible removal from the legal custody of the Collector or his Officers of any vessels or property seized or detained by him under the revenue or Embargo laws.

III. To aid in suppressing any insurrection which may exist in the District first consulting and acting with the advice and approbation of three Judges or Justices of the County in which such insurrection may exist.

It will be best in all cases to forbear the exercise of force until it is clearly ascertained that persuasion and moderate measures are unavailing and even then to use no more violence than is necessary to overcome the resistance.

Col. Jonas Simonds New York

THE GOVERNOR ISSUES FURTHER ORDERS TO THE CAPTAINS ORDERED
ON FRONTIER DUTY.

New York, 28 Sept'r, 1808.

Gentlemen: Col'l Simonds has arrived at this place. The following are the stations of the respective companies as ulti-

mately determined upon and to which they will respectively march without delay:

Capt'n Townsend at or near the Town of Champlain in Clinton County.

Capt'n Brooks at the same place, or at Plattsburgh in said county.

Capt'n Cross' Company will remain at Salem in Washington County pressing the recruiting service until further orders from Col. Simonds.

Captains Cherry & Cock will proceed without delay to Oswegatchie in St. Lawrence County.

Capt'n Bennett will proceed to Sackets Harbour and Capt'n Anderson will proceed without delay to Oswego.

Capt'n Rose will press the recruiting service and wait the orders of Col. Simonds for his march to such place as Col. Simonds shall by order direct.

The several Captains hereby directed to march will be careful to proceed without a moment's delay advising General Wilkinson, Col. Simonds and my self of their departure, movements and arrival. On the arrival of Col. Simonds at the several posts which he intends to visit, he will give all needful orders, which are to be strictly obeyed, notwithstanding they may contravene the instructions which have been given by Me. It is perhaps proper for me to observe that, altho the Orders of General Wilkinson of the 5th and 7th Inst. expressly required the several Captains to notify me of their movements, I have as yet received no information from any companies, except those which were recruiting in the City of New York. Officers must remember that a neglect of duty in this respect is extremely improper & will not in future be tolerated.

The consequence of marching without apprising me thereof may be that some companies destined by ultimate arrangement for one place may have marched without any knowledge for another, and thus extra expense and delay may be occasioned. Captain Cock will proceed from Utica to Oswegatchie, and Captain Cherry, if still at Utica, will proceed in company with him or as soon afterwards as possible.

Capt'n Cherry being the senior officer, will take the command of the two companies on the Journey and at Oswegatchie, subject to the Instructions and Orders of Col. Simonds. If it should appear on the receipt of these orders that Capt'n Anderson has proceeded to Oswegatchie and can not be informed seasonably to remain at Sackets Harbour, then Capt'n Cock will stop at Sackets Harbour until the arrival of Col. Simonds, who will make the necessary arrangements for the Exchange of Positions.

Should Capt'n Bennett before the receipt of this Information have arrived at Oswego, and Capt'n Anderson have proceeded for Oswegatchie, in that case Capt'n Bennett will remain with his company at Oswego, until Col. Simonds may give orders for his marching for Sackets Harbour.

A copy of my Instructions to Col. Simonds and of General Wilkinson's letter to me are annexed for your information & Government until the arrival of Colonel Simonds.

Capt'ns Cherry, Bennett, Cock, Brooks, Cross, Rose, Anderson, Townsend.

THE GOVERNOR'S BELIEF THAT THE MILITARY SHOULD ACT AS
AUXILIARIES TO THE COLLECTORS IN EMBARGO AFFAIRS.

New York, September 28, 1808.

Dear Sir: Absence from the City prevented my receipt of your letter of the 16th Instant until the 26th and the pressure

of public business on account of the presence of the Secretary of War and Col. Simonds and with the affairs of this State, must be my apology for omitting an answer until this day. I take the liberty of enclosing copies of all the Instructions and advice which I have given and the letters written and received, touching the subject to which your orders relate. I have received no communication, verbal or written, from any of the Captains, except those whose Companies were recruited in this City.

Capt'n Cock mentions incidentally in one of his letters that Capt'n Anderson had marched from Albany on Friday the 23rd, of which I have not had information from any other quarter, or any notice of such movement contemplated.

For this reason I hope you will not deem my remarks upon this point in the Instructions to the Captains as unseasonable or improper.

You will perceive that a small alteration is made in your arrangement of the stations of the respective companies, the reason of this when explained to you by Mr. Gallatin will I trust be satisfactory.

Col. Simonds is also acquainted with them and both the Secretary of the Treasury and Col. Simonds approbated the measure. But if without notice to me, Capt's Anderson and Bennett have proceeded so far as to render the change of the arrangement troublesome and inconvenient, you will observe that, in that case, I have directed Bennett and Cock, to take the stations originally mentioned by you.

I am so much pleased with the candour, discretion and intelligence of Col. Simonds, that I am perfectly satisfied that all future orders and directions to the several companies may, with the utmost propriety be submitted to him, with such instruc-

tions as you may from time to time give him. I have no objection, however, to take such future agency in the business as you may think proper to request.

By the Embargo laws the President is vested with very broad discretion and, therefore, may perhaps have power to cloathe a Military Officer with authority to arrest and detain property which he may suppose destined for Exportation in contravention of the laws.

But until such power is delegated by the President, I am of opinion the power of the Military extends no farther than to act as Auxiliaries to the Collector and his Deputies, and that, therefore, the presence of the Collector or some of his subordinate officers, would be necessary to give legality to a seizure.

I consider this caution necessary at present to protect the Military officers from being harrassed with suits for seizures without the presence of the Collector or his deputies, the Issue of which prosecutions, according to my present impressions, would be doubtful, as the Secretary of the Treasury informs me that he has authorized the several collectors to appoint any number of Deputies they may think proper, there need arise no detriment to the public Interest from the restrictions imposed upon the Detachments.

But if I am mistaken in my ideas upon the subject, and have fallen short of the Views of the President, I have to request that you will be so good as to apprise the President of it and request that the Detachment may be furnished by the Officers of the General Government with such specific detail of their powers and duties as will enable them to accomplish the Presidential Will.

Genl. James Wilkinson, Carlisle, Pennsa.

GOVERNOR TOMPKINS TO THE GOVERNOR OF SOUTH CAROLINA IN A
REQUISITION CASE.

New York, 29 September, 1808.

Dear Sir: Your first letter* requesting the delivery of Arthur Miles, as a fugitive from Justice, not being accompanied by a certified copy of an affidavit, charging him with a crime, or with the copy of an Indictment, I had doubts of the Propriety of my Interference.

But your second letter removed the difficulty. Upon the receipt of which I immediately gave directions to search out Capt's Flagg or Slocum. The latter having been found the requisite order was given for Miles to be delivered to him, and he will be delivered accordingly this day or tomorrow.

His Excellency Charles Pinckney Govr. of South Carolina.

GOVERNOR TOMPKINS TO A COMMITTEE IN REGARD TO ROAD-
COMMISSIONERS IN DUTCHESS COUNTY.

New York, 15 October, 1808.

Gentlemen: Herewith I transmit to you a permit to erect a Gate on the Ten Miles of the Highland Turnpike, which has been completed from Poughkeepsie northwardly. I should also have accompanied it with an appointment of permanent inspectors of that part of the road which passes through Dutchess county, were it not that I was apprehensive the Gentlemen named by you, did not live in a part of that county convenient for the purpose.

*Not found.

I believe they all live in the northern or Eastern part of the county and some distance from any part of the road, the consequence of appointing men thus resident would be to defeat in some measure the object of the Legislature. For when the whole of the Road passing through Dutchess is completed, which must be anticipated in this appointment, there might be parts out of repair in places so remote from the Inspectors, that persons acquainted with the circumstance and aggrieved by it would rather submit to the inconvenience of its remaining in that state, than be at the trouble and expense of complaining to the Inspectors.

I could, therefore, wish that you would mention three suitable persons residing in that part of the county through which the road passes, one at Fishkill or between that place and Westchester county—one at Poughkeepsie or between it and Fishkill and the other as far northerly as Rhinebeck.

Permit me to observe that the men named by you some of whom are known to me, are very suitable and proper characters, and that my hesitation in appointing them arises solely from their local situation.

The Honbl. John Johnston, Robt. Williams & Wm. Davis, Esq.

THE GOVERNOR APPREHENSIVE THAT CERTAIN ORDERS HAVE NOT
BEEN PROMULGATED.

New York, 15 October, 1808.

Dear Sir: The reason of my not answering your letter of May was, that I did not receive until my return from the Council of Appointment late in June, and that soon after some person

called on me on other business, and incidentally mentioned that you desired him to inform me that the orders had not been received. In answer, I informed him that I gave written directions to the Adjutant General to Issue the orders and presumed it had been done, but as it was necessary that the order should go through the Hands of the Generals, it might perhaps have been delayed in that quarter, but would probably shortly be known to those concerned. I have an impression that Mr. Pelton was the Gentleman to whom I made this reply and from his vicinity to you, I presumed his mentioning the reply would supersede the necessity of a written answer, especially as you probably knew my private secretary was not in town, and that I was very much pressed with public business. Your Brother, Senator Ward, also mentioned this subject to me before he left Albany and I then informed him also, that I had directed orders to be issued upon your complaint against Col. Pell, of which he intended to inform you by letter. I hold every officer responsible for the duty incident to his particular station. When I arrive in Albany it is my intention to ascertain from the Book of General Orders, whether the Adjutant General has complied with my directions. If he has not, I shall hold him responsible, but if he has and the General Orders were duly issued, I shall trace them until I find where the delay has happened and proceed accordingly.

I have not been able to go to Albany since June, but expect to set out on Saturday next, and immediately on my arrival will ascertain by the orderly Book where the neglect has happened.*

*Charges were preferred against Colonel Pell. See Tompkins Papers, Vol. I, pp. 174-175.

Permit me to assure you, that I regret that my orders have not been attended to, and that I shall call the proper officer to account as soon as I can ascertain where the fault lies; and will immediately thereupon apprise you of it.

Major Rich'd Ward.

THE GOVERNOR OF THE OPINION THAT A PROPORTION OF THE CANNON
IN THE HARBOR DEFENCES OF NEW YORK BELONGS TO THE
STATE.

New York, 19 October, 1808.

D'r Sir: I have received your letter of the 16th; as you mention that the accounts rendered are to be found in the Comptroller's office of this State, I shall lose no time after my arrival in Albany, to ascertain the real state of the charges for cannon &c. and will then write to you particularly on that subject. In the mean time, I have directed the Commissary of Military stores, to desist from removing the artillery &c. from the Arsenal ground ceded to the United States. I am inclined to believe that a proportion of the Cannon in the works formerly erected in this Harbour belonged to the state long before those works were commenced, & were never charged in the account. I shall, however, investigate the subject, and if it be found they really belong to the United States I shall have no disposition to controvert a just and reasonable claim.

Will you have the Goodness to inform me whether a Colonel, Lieutenant Colonel or Major of Artillery, will be taken from this State, as I have in view two or three Gentlemen who I believe would be suitable characters for those offices. But I do not wish to trouble you with recommendations unless there are vacancies which are to be filled from this State.

I have no doubt the appointments of Field Officers already made, will be found to be perfectly proper and Satisfactory.

The Honbl. Henry Dearborn.

FORTIFICATIONS ON STATEN ISLAND.

COLONEL WILLIAMS COMPREHENSIVE PLAN FOR THE DEFENCES AT
THE NARROWS.

New York, October 21, 1808.

Sir, In the repeated interviews with which I have been honored by your Excellency, my constant disposition to render any Acceptable service to the state and city of New York, respecting the fortifications proposed to be made, in addition to those now making, by the United States, will, I trust, have been abundantly testified. The letter of the Secretary of War, of the 27th September, which you were pleased to deliver to me, could, therefore, only add the sanction of high authority, to what my inclination prompted me to perform.

In obedience to the secretary's orders it becomes my duty to present you with a "a Plan of an enclosed work on Flag-staff hill, to be erected under your directions, at the expense of the state of New York."

I have more than once observed to your Excellency, that a defence at the Narrows, of any kind or any Magnitude, could in no wise render the interior defence now prosecuting within the harbour less necessary or important. It would be as vain to rely on the exterior without the interior defence, as the most sanguine partizan for the fortifications at the Narrows, could suppose it to be, to rely on the latter without the former. In my opinion both are indispensably connected, tho' if our means

were only capable of embracing one, I should prefer that which would with certainty prevent a ship from lying near the town, to that which would very probably prevent the passage of a ship through the Narrows; since the utmost success of the enemy, would in one case, be but a small comparative injury, (only the injury that could be done in passing) while in the other a passage of the first and only barrier, would be followed by a total prostration.

I have on former occasions stated, that a complete defence at the Narrows, ought to consist of strong batteries on each side, and obstructions in the middle; these last might be temporary and occasional, and if they were only such as to arrest the progress of the enemy for a short time, the batteries in that time would certainly disable and probably destroy him.

To begin with that side near Long Island. I have shewn to your Excellency, (when you honored me with your Company on board the Engineer Cutter,) that Hendrick's reef has upon it but Eight feet of water, at half tide, between four and five hundred yards from the shore; and that there is a sufficient space on a solid bed of rock, to erect a Castle of any requisite magnitude. Let us suppose that a Castle were erected here,* composed of two circular towers, inscribing 270 degrees, in the manner of the castle that is now building at the western point of Governor's Island,† and that these were joined by a right line of the same composition. Such a castle could be made to mount between two and three hundred guns, and one half of its force would bear upon a ship from the first moment she came within cannon shot, to (even if she should pass) the last

*An idea that developed later into Fort Lafayette.—STATE HISTORIAN.

†The present Castle Williams named in honor of its projector.—STATE HISTORIAN.

moment she sailed without it; while the ship could not do the smallest injury in return. A similar castle of two towers united in like mannner by a Courtine on the Staten Island side, upon the point I indicated to you, forming the angle of the entrance of the Narrows, at the S. W. extremity, with a breastwork on the sand beach, which projects to the eastward of it, and immediately under the highest land, would present at least an equal number of Guns, and the distannce between these Castle's being al most 1600 yards across the Narrows, this tremendous fire must take effect, at only 800 yards, which is but little more than battering distance, even if stone instead of wooden walls were to be attacked, and with every facility for a quick fire and accurate direction. In speaking of these Castles, I beg that it may be remembered, that I speak of casemated works, whose ample barracks are under one cover, like ships decks, where nothing is liable to the attacks of the weather, nor the decay of time, except such as a very slight tho' constant attention would always remedy; in short, works, that except in time of war and when an Action may be daily expected, would require only a subaltern's guard; for since one man could by daily care keep ten guns in good order, when completely housed, thirty effective men would be a sufficient guard for a whole castle.

As the defence of these Castles requires no other organization than what is requisite merely to load, point and fire upon an object as it comes into view, a number of citizens might be classed and trained so as to repair to their posts in time of need, with as much celerity and knowledge of their duty, as the Firemen of New York do in cases of alarm of another kind. And respecting expenses, it may safely be asserted, that reckoning in proportion to the number of guns to be mounted, it is by far the cheapest mode of fortification ever yet invented.

But to secure these Castles from attack in the rear, it becomes necessary to possess the high ground on Flag-staff hill, especially as the proposed Castle and breast work are connected with the land. The heights on Long Island become less important in this point of view, owing to the distance of Hendrick's reef from the shore, tho it certainly would be expedient to erect a protecting redoubt there, especially to insure a supply of water. The Staten Island height may be considered as inaccessible on the side of Narrows, owing to its very steep ascent and great height (being about one hundred and seventy feet in an angle of 45 degrees and in some parts nearly perpendicular to the base) to which may be added, the defence of Abatis, freises and palisades below the range of a plunging fire. A work placed here would therefore protect the battery on the beach, and a range of small batteries on the sloping ridge to the southward, while these would again protect and completely defend any approach to the Castle by land or water. So that the water batteries may be considered as impossible to be silenced, while the works on the hill can hold out against any attack the enemy could make, by landing at a distance, and forming a siege in the rear. The importance of the position Flag-staff hill, is evinced by the British having thrown up a redoubt there to protect the passage of the Narrows, when they had possession of New York. A work to be erected here, thereafter must be calculated to hold out long enough for the yeomanry and militia to assemble and force the enemy to raise the siege.

Proceeding on these principles the first requisite is water, and here a difficulty at first presents, there being none on the

height but what may be collected in cisterns from the rain; but the difficulty is not insurmountable, for there is a fine and abundant spring at the foot which would fall within the breast work, and be fully under the protection of it as well as the fort above, so that no number of the enemy could stay there a moment, and by a very simple machinery the garrison could be supplied with as much facility as they could by a well.

The plan I have the honor to enclose presupposes that no attack by artillery could come from the water side eastwards. The parapet therefore is on this side only a wall of inconsiderable height in order to facilitate a depression of the guns so as to fire into the decks of any passing ship; all the defence against a land attack is therefore confined to that necessary to repel an attack with small arms; that of the other three sides therefore is proposed to consist of rampart, parapet, scarp, ditch, counterscarp and glacis. A covered way has been thought necessary, because the siege (should one ever take place) can never be of so long duration as to require one; the enemy would certainly attack by a coup de main, and abandon in case of failure. I have preferred half bastions to whole ones because the whole length is within the reach of a musquet ball, and because it affords a greater salient angle with less expense, and the opposite end of these sides is sufficient to defend the face of the half bastion, in the nature of a second flank. On the S. E. angle instead of a bastion, I have made a circular tower, because this shape embraces the greatest possible space with the least possible wall; because it is unassailable, except where it is defended by the second flank before mentioned, and finally, because there is not sufficient ground for the salient angle of a bastion; this latter reason applies in favour of the half bastions, for the

salient angle of a raveline, would go too far down the hill in the rear, and it would alter the direction of the Southern front which is now at right angles with the most efficacious fire. In each flank should be a casemate with look holes for small arms to scour the ditch. This will remove the objection to the dead angle which results from the want of an opposite flank. Another important reason for the circle is the space it leaves for a circular magazine in its centre with an ample area round it, without encroaching upon the rampart. For other particulars relative to this work, I beg leave to refer you to the enclosed plans and sections.

There does not appear but one height in the neighborhood of Flagstaff Hill, from which it could be annoyed by an enemy except one to the S. W. But this nearly on a level with the Parapet, and by no means within battering distance; it is not besides possible for an enemy to entrench himself there unless he be master of the Country.

The ultimate point of the public land to the southward of the fort is not five hundred yards distant, descending and ascending irregularly to a total fall of about forty feet, and then it is an almost perpendicular cliff of one hundred and thirty feet from the top of the beach below.

This ridge, which in the greatest length of the state's boundary is but fifty or sixty feet in width, offers no space for a foot. If the public line were made straight there would be ample room for a number of batteries, each behind and above the other. As I have before observed, such batteries would need no other expense than merely excavation, sodding and platforms, for each being dependent on the command in the rear would require no particular defence of its own.

I beg leave to close this representation with a few remarks, which as a public and responsible officer I feel myself bound to make with freedom, and I know I can rely on your Excellency's indulgence for an excuse.

The application of so small a sum as One hundred thousand dollars for the defence of the Narrows, can only be considered as a beginning; for unless the appropriations continue, it must become (although sufficient for the work proposed) an useless expense. It would be the most barefaced empiricism in any man who would undertake so great an object with so limited means. A defence must be really such, or it is nothing—worse than nothing; for if it be ineffectual, it becomes a sacrifice of national honor as well as wealth. This is the first observation I had the honor to make when you applied to me, and I took the liberty of stating to you, that as an honest man, I could not give any advice on the subject unless I was permitted to state what the whole system ought to be, and then to begin with a part of it in such a manner that however distant the time may be when that system is to be completed, the work now begun would be found permanent in its nature and appropriate in its size, shape and position. Acting upon this principle, I have given your Excellency a plan of a work not only essential but indispensable to the system. But if this fort were to be considered or designed of itself alone, to defend the entrance of the Narrows, I should be sorry to be quoted as the author of it. There is no such thing as economy in fortifications, short of permanency and efficacy. This position is self evident: another is in my opinion equally so; there is no sum of a money that a full and complete defence of this harbor would cost, that ought to be considered as anything in comparison with the advantage that would result from it:

that is, a saving of the difference between the value of the real estate and commercial property, including produce in the city and vicinity of New York, when secure against any maritime attack, and the value of the same estate and property exposed to any maritime attack. This difference is repeatedly felt at the time of every serious alarm, which is the same thing as repeatedly paying for more than an efficient fortification would cost without enjoying the benefit of one. I know it may be said that the alternate fall and rise of property makes no alteration in its ultimate value. But this is only true of property where income does not vary and which always belongs to the same owner. As the expenditures of fortifications are progressive, so might be the appropriations, for it is not desirable to have money laying unused; it is only requisite to be certain of the progressive supplies with some money always in hand.

It is by no means my desire to intrude on your Excellency's time by an essay on the expediency of a full and ample defence; but the nature of the case and the position I am placed in by the application you honored me with, render it necessary, for my own justification, to state the principles upon which alone I can consider the plan I herewith present as of an importance.

The plans, profiles, and elevations of the proposed castles shall be furnished whenever they shall be required, and I beg your Excellency to be assured that I shall at all times, with the utmost readiness, afford you and the state all the assistance that my imperfect means can supply. I have the honor to be,

With greatest respect &c.,

Jona. Williams,

Col. Comr. of Engineers.

His Excellency D. D. Tompkins, Esqr.

THE GOVERNOR TO DE WITT CLINTON IN REGARD TO THE ACQUISITION
OF LAND FOR THE ARSENAL NEAR THE BATTERY IN NEW YORK
CITY.

New York, 22 October, 1808.

Dear Sir: In consequence of the cession of ground near the Battery to the United States for an arsenal, and to the corporation for the extension of Bridge street, two small gores of ground have been entirely separated from the residue of the State's property. One of them is bounded by Pearl street, Bridge street on the north, State street on the West, and Mr. Gracie's land on the East containing nineteen feet in width on Pearl street. The second, is a triangular strip, fronting White hall street and running to a point on the south side of Bridge street.

As the above mentioned strips of ground are in their present state, of little or no use to the public, and as the appropriation for the state arsenal, proves inadequate to complete the arsenal, workshops, fences, &c. and to regulate the Ground, I am disposed to recommend to the Legislature and hope they will acquiesce in the recommendation to sell the two above mentioned gores of ground, to raise a fund to complete the Arsenal, Workshops, Gun Houses &c. But, in consequence of an Act of the Legislature, declaring the Title and the uses to be made of the ground on the Battery and appurtenant to the Government House, it may be necessary to obtain the assent of the corporation to a sale for private purposes, I, shall, therefore, be greatly obliged if you will submit this subject to their consideration at their next meeting and ascertain whether they will yield their assent.

The liberality of the corporation in granting gratuitously the ground for an arsenal, magazine and other public uses, induces me to believe that they will not hesitate in acceding to a sale of the above mentioned gores for the purpose before specified; especially when they reflect, that they are useless to the State without such disposition, and that the proceeds are contemplated for the ornament of the city, and the safety and convenience of its Inhabitants.

Permit me to improve this opportunity to communicate to the Corporation, my sincere thanks for the liberality and patriotism they have displayed in relation to all the subjects upon which I have had occasion to trouble them during the Summer, and to convey to you, personally, my acknowledgements for your politeness in accommodating me with an office, and for numerous other instances of attention and kindness.

Honbl. De Witt Clinton.

THE GOVERNOR NOTIFIES THE COMMISSIONERS WHO ARE TO REMODEL
THE COURT OF CHANCERY CODE.

Albany, October 31, 1808.

Gentlemen: Pursuant to the annexed concurrent resolutions* of the Senate and Assembly of this State I take the liberty of requesting that you will render your services in devising the system therein contemplated.

Permit me also to request that I may be favoured with the result of your deliberations on this subject, by or during the ensuing February term of the Supreme Court.

The Honble. Ambrose Spencer, Peter Jay Munro, Esquire, and
Jonas Platt Esquire.

*See page 97.

THE GOVERNOR'S ADDRESS TO THE LEGISLATURE.

Gentlemen of the Senate and Assembly,

At the commencement of the last session I had the honor of expressing to the legislature my opinion respecting the measures adopted by the national councils, to prevent our being involved in the desolating wars of Europe. Nothing has since occurred to produce a change of that opinion or to impair my confidence in their exertions and zeal to avert, as far as is consistent with the welfare and independence of our country, the calamities of war. I am however, compelled with regret to inform you that I am not apprised of any material alteration in the state of our foreign relations since that period. The embarrassments to commerce and agriculture, incident to the existence of the embargo, are still experienced, and should they continue, they must be ascribed to the perseverance of the belligerents in their illegal and unjust aggressions upon the commerce of the United States. This consideration affords additional motives, for enduring with patience the privations resulting from the counter-acting measures of our own rulers, and for yielding a warm, unanimous and decided support to their prudent and incessant efforts to maintain, without an appeal to arms, the honor of our country, and the rights and tranquility of its citizens. Should our hopes of an amicable accommodation of existing differences be frustrated by an obstinate adherence of the belligerents to their unprincipled and arbitrary restraints upon neutral commerce, and a resort to the sword become inevitable, we can meet the event with a consciousness of the rectitude of our cause; with a firm dependence on the patriotism and bravery of freemen, and with a humble reliance on the protection of that providence who has hitherto favored us.

The period for which the President and Vice-President of the United States were elected, expires on the fourth day of March next. The appointment of electors to represent this state in the choice of successors to those distinguished personages, is the principal business for which you are now convened. I however avail myself of this occasion to submit to your consideration some topics not immediately connected with this prominent duty.

It has not probably escaped your observation, that on the eighth day of March last, a law was passed inflicting death for a crime, which antecedently subjected the offender to imprisonment in the state prison for life, and authorising whipping for petit larceny. It has been justly observed that punishments, mild, speedy and certain, are the means best calculated to answer the end of criminal jurisprudence, that they ought always to be proportioned to the crime, and that the reformation as well as the punishment of the offender, ought to be constantly and steadily kept in view. The spirit of freedom, the dictates of humanity, and the principles of christianity, require that the awful penalty of death should be inflicted as seldom as possible. The scene of distress and agony exhibited at an execution, naturally excites an aversion to the laws which sanction such severity. Punishments will also be more certain, when moderate and rational. Because, those who are best able to prove the guilt, or who may be most materially affected by the crime, will then feel no reluctance, nay, will cheerfully perform the duty of detecting and exposing every offender. The jury will be less anxious to seize upon specious doubts to justify an acquittal and but a feeble hope of escaping the sentence of the law, by technical objections to matters of form, or by executive clemency,

will be entertained. Besides, by substituting imprisonment at hard labor, society is relieved from the painful responsibility of sending one of its members suddenly and perhaps unprepared to the tribunal of his God. The fruits of his labor enure to the benefit of community or his family; the regimen of the prison precludes gambling, idleness and debauchery, the usual precludes to greater enormities; and that discipline united with the religious exercises of the institution, afford to the charitable and philanthropic mind at least a glimmering hope of ultimate repentance and reformation. Impressed with a decided opinion that the deprivation of life is seldom necessary, and that it is incompatible with the genius of a free government, and the state of civilization and refinement of which we boast, I am constrained by a sense of duty to suggest the absolute necessity of forbearing to extend that punishment to other crimes than those of treason and murder. With respect to whipping, for petit larceny, I would remark, that there are various reasons which might be assigned in favor of confinement at hard labor in preference to corporal pains. By the former, the offender is deprived, for a period, at least, of an opportunity of repeating his crime, whilst in the latter case, he is forthwith discharged to renew his depredations. A term of temperance, labor, and privation affords a hope of amendment. While on the other hand, reason and experience abundantly testify that no such reformation can be wrought by the agonies of a lacerated body; for the publicity and ignominy of the punishment stifle every remnant of pride and ambition, and destroy the prospect of ever regaining a character. I might also add, that the frequent exhibition of cruel and sanguinary punishments wounds the sensibility of the humane, and corrupts the disposition, and depraves the morals

of a great proportion of the spectators. With deference, therefore, I submit to your wisdom the propriety of totally exploding corporal chastisement from our criminal system.

There is much reason to believe that the prevalence of crime of a deeper dye, are too often the result of impunity for offences of an inferior grade. Although the legislature have, by a variety of statutes, enacted numerous regulations to prevent practices of an immoral and dangerous tendency, and which are generally the commencement of a career of more iniquitous and criminal conduct, and although the provisions of those statutes are daily and notoriously violated, yet the instances in which they are enforced, are astonishingly rare. The security with which one law is publicly infringed, not only creates an expectation of similar impunity for the violation of others, but also produces a contempt of the laws generally. Your wisdom will determine whether some more suitable measures ought not to be devised to ensure their observance.

The execution of the sentence of Rufus Hill, convicted of murder at the last court of oyer and terminer, in Chenango county, has been suspended. A statement of his case will be submitted to you without delay.

Most of the arms, ammunition, and military stores, destined for the Northern and Western frontiers, have been delivered at their respective places of deposit. Those for the counties of Clinton and Essex are on their way, and those to be deposited in Jefferson county are at Utica, and will be speedily transported to Champion.

Under the act, authorising me to select and receive a title for one of the lots of ground offered by the corporation of New York for the erection of a State Arsenal, I have been enabled by the

liberality of that respectable body, to obtain two of those lots, and a conveyance of them to the people of this state has been executed and delivered. The building has been finished, and the account of disbursements will be exhibited to you during the present session.

The proceedings which have taken place relative to the acquisition of the title of Ellis's or Oyster Island for fortification, and of Watch Point for a Light-House, and also under the act for procuring an additional supply of ordnance, small arms and ammunition, will be particularly detailed in a future communication.

The powder magazine and a dwelling house for the superintendent, will be completed in a few days. The quantity and situation of the land obtained for this purpose, with an account of the money drawn and expended, will be the subject of a special message.

It affords me pleasure to inform you that the fortifications erecting under the authority of the United States for the defence of the city of New-York, have been prosecuted with activity and zeal. A variety of circumstances, have retarded the commencement of the expenditure of one hundred thousand dollars appropriated for that object by the legislature of this state. To accomplish their views by devising and commencing works upon which the greatest number of distressed persons might be employed, and which might be in concert with the defensive operations of the general government, and at the same time to apply the sum granted in the most economical and beneficial manner, was a task replete with anxiety, responsibility and embarrassment. I have the satisfaction to inform you, that with the intelligence and generous assistance of Colonel Wil-

liams, chief engineer of the United States, whose services merit the highest encomium, those difficulties have finally been surmounted, and I flatter myself the place which has been decided upon, and the plan of the works to be erected will meet your approbation.

It is our lot, gentlemen, to live in a portentous period. The old world is shaken to its centre by the mad ambition of its potentates; and Europe exhibits an affecting spectacle of blood and warfare. It has been the alternate policy of two of the belligerents to entangle us in their quarrels; hitherto we have escaped, but it requires almost super-human wisdom in our rulers to preserve our sovereignty and independence and to avoid being engaged in their wars. Thus situated, it is our solemn duty to second the efforts of those to whom we have entrusted the highly responsible rights of peace and war. It is our duty to strengthen the hands of government by imparting a liberal confidence when our dearest rights are not only in jeopardy but actually invaded, and to prove to the world that we are not a divided people, but that we are in truth Americans.

With an ardent wish that harmony may prevail in your deliberations, and that your proceedings may promote the welfare of our constituents, I tender you an assurance of my readiness to co-operate in your labors to promote the common benefit.*

Daniel D. Tompkins.

Albany, November 1, 1808.

*This session of the legislature opened November first 1808 and adjourned November 8th. It was called specially to choose president electors to vote for a successor of Thomas Jefferson who was ending his second term. George Clinton, whose canvass was in the hands of his energetic nephew DeWitt Clinton appeared to control the strongest sentiment in New York for president but the electors were eventually selected without reference to personal preference. At the general election James Madison, of Virginia, was chosen president and George Clinton, Vice-President.—STATE HISTORIAN.

REPLY OF THE SENATE.

To His Excellency the Governor of the State of New York.

Sir: The evils which have resulted in this country from the unjust aggressions of the belligerent nations of Europe upon our neutral rights, and the indispensable duty of sustaining those evils and if necessary the still greater calamities of war, with fortitude and patriotism, are fully recognized by the intelligence of the nation; and we shall not fail to repose a just confidence in the national government, and to promote with zeal and energy their efforts to support the rights and to promote the honor and welfare of our common country.

It gives the Senate pleasure to observe the progress which has been made by your Excellency, in executing the arrangements that were formed at the last session of Legislature, for the defence of the State; but as this is a paramount duty of the national government, and as our great commercial emporium is peculiarly exposed to the attacks of an enemy, we cannot entertain a doubt, and especially at a period so critical, but that an object of the first importance to the prosperity of the state, will receive the most marked attention of the constitutional guardians of the common defence and general welfare.

The different subjects recommended by your Excellency to the attention of the Legislature, will, as well for their importance as from the confidence we repose in you, receive our early and deliberate consideration; and we feel persuaded, that an harmonious co-operation in the execution of the duties committed to the different branches of the government, will produce results honorable to them and beneficial to the State.

John Broome,

President of the Senate.

Albany 4th Nov. 1808

 THE GOVERNOR'S REPLY TO THE SENATE.

Gentlemen: The disposition you evince to preserve harmony in the measure of the different branches of the government, cannot fail to produce the most benign consequences. It yields me sincere satisfaction to learn, that my exertions, in forwarding our defensive arrangements, receive the approbation and sanction of the senate.

The grateful sensations afforded by the assurance of your confidence, confers the highest reward to which I aspire, and the strongest motives to merit its continuance.

Albany 5th, Nov. 1808.

 REPLY OF THE ASSEMBLY TO THE GOVERNOR.

To His Excellency, Daniel D. Tompkins,
Governor of the State of New York.

The Assembly can never receive a communication from a Governor who possesses their respect and confidence, without pleasure. To meet such a Chief Magistrate, and to receive from him information of the State of our public affairs has accordingly given us great satisfaction, upon this occasion.

We learn, with regret and indignation, that the belligerent nations of Europe, still continue their aggressions upon the commerce of the United States. At the same time,

we concur with you, in approving the wise measures, which have been adopted by the general government, to counteract those aggressions, and to protect our rights as an independent people. Should war ultimately become necessary, we shall firmly meet the event. The measures and the means of resisting the aggressions of foreign powers, belong to our national councils; and in their wisdom and integrity, we have entire confidence.

The several subjects recommended to the consideration of the legislature, shall receive our deliberate attention; and we shall cordially unite with the other branches of the government, in exertions to promote the common welfare.

James W. Wilkin,

Speaker of the Assembly.

Albany 5th Nov. 1808.

REPLY OF THE GOVERNOR TO THE ASSEMBLY.

Gentlemen: A public expression of the respect and confidence of the Representatives of a highly respectable, extensive and wealthy state, would at all times and under any circumstances afford me the highest gratification; but at an embarrassing crisis like the present, when honest motives and well intended conduct may be misrepresented and misunderstood, it creates the most grateful sentiments and abundantly compensates for the increased cares and labors incident to such a period.

Accept, Gentlemen, my thanks, and the sincere assurance that to merit such confidence will always be my greatest pride, and the object of my most strenuous exertions.

Albany, November 7th, 1808.

THE GOVERNOR'S EXPENSE ACCOUNT FOR THE CONSTRUCTION OF THE ARSENALS IN NEW YORK CITY AND CANANDAIGUA.

Daniel D. Tompkins, Governor of the State of New York

				To the State of New York	Dr.
1808 June 10th	To Cash	paid him	by the Treasurer		\$5030
July 4th	Do	do	do		5000
" 29th	do	do	do		3000
Balance due the Governor					1644.92
					<u>\$14644.92</u>
				Credit	
By amount expended by him for labor and materials in erecting an Arsenal in the City of New York					\$14644.92
					<u>\$14644.92</u>

State of New York

Comptrollers office.

I have examined the preceding account of Daniel D. Tompkins, Esqr. Governor of the State of New York, in relation to his receipts and expenditures:

under the Act, entitled "An Act for the erection of a State Arsenal in the City of New York," passed 19th March 1808, and do hereby certify that he has received out of the Treasury of this State, in pursuance of said act, the sum of Thirteen thousand dollars, and that he has produced vouchers to me for Fourteen thousand six hundred and forty-four dollars and ninety two Cents, expended for materials and labor in erecting an arsenal in the City of New York. And I do also certify, that there is a balance due thereon, to him, of \$1644.92

Archb. McIntyre Comp.

Albany 2nd, Novr. 1808.

Daniel D. Tompkins, Governor of the State of New York

To the State of New York, Dr.

1808 Apr. 14th	To Cash paid him by the Treasurer	\$2000
July 15th	Do Do	750
Aug. 22nd	Do Do	915.96
Sept. 10th	Do Do	1200
" 24	Do Do	1250
Oct. 22nd	Do him by Moses Atwater for iron mongery and other articles not used for the Arsenal at Canandaigua and sold to him	35.72
		<u>\$6151.68</u>

Credit

By amount of his Expenditures for materials and labor for erecting an arsenal at Canandaigua	\$2576.59
By Do. in transporting Ordnance, small arms, ammunition and accoutrements to various places of deposit, cleaning Arms, &c. &c. including \$923.11 cents paid in advance to John McLean, and \$400 paid to William Yates on unsettled Accounts, balance due the State of New York	3559.99
	<u>15.10</u>
	\$6151.68

State of New York
Comptrollers Office.

I have examined the preceding Account of Daniel D. Tompkins, Governor of the State of New York, in relation to his receipts and expenditures, under and pursuant to the Act, entitled "an act to provide for the defence of the northern and western frontiers", passed 12th February, 1808, with the vouchers accompanying the same, and do hereby certify that from the said vouchers it appears, that he has expended (including nine hundred and twenty-three dollars eleven cents, paid to John McLean, and four hundred dollars, to William Yates, on unsettled accounts) the sum of Six thousand one hundred and thirty six Dollars fifty Eight cents, and that there is a balance due thereon from him of Fifteen dollars ten cents, which with the said two sums advanced to John McLean and William Yates is yet to be accounted for.

Archd. McIntyre,
Comptroller.

Albany, November 2nd, 1808.

THE GOVERNOR REPORTS MILITARY PROGRESS TO THE LEGISLATURE.

Gentlemen: By an Act of the last session of the Legislature, the Executive was authorized to organize companies and battalions of flying or horse artillery. Pursuant to this authority,

some companies have already been organized.* The utility of this description of troops, has been fully evinced in Europe; and they are more particularly beneficial, in a country having frontiers, so extensive as those of the United States. The only treatise upon the manoeuvres of horse artillery, which appeared in this country, was furnished by General Kosciusko, to General William R. Davie, and by him presented to the United States Military Philosophical Society. The respected and learned President of that institution has at the request of the donor, translated and published it for the benefit of the society. A copy of the work is herewith transmitted to the Legislature. I trust they will deem it highly expedient to authorize a subscription for a number of copies, sufficient for the use and instruction of the horse artillery of this State.

Daniel D. Tompkins.

Albany 3rd Novr. 1808.

To the Legislature of the State of New York in Senate and Assembly, convened.

The commissioners appointed by an Act entitled "An Act to cede the jurisdiction of certain lands in this state to the United States" passed March 20th, 1807, and by an Act supplementary thereto, passed March 18 1808 beg leave to report,

That pursuant to the authority vested in them by the said Acts, they met in the City of New York in the Month of April last, and there received communications from Jonathan Williams, Colonel of Engineers, in behalf of the Government of the United States, relative to the lands deemed necessary to be ceded for the defence and safety of the port of New York. That after mature deliberation on those communications, and upon obtaining accurate surveys of the ground required, they executed a deed by which they declared the consent of the Legislature, that the lands therein mentioned, should be vested in the United States, which according to the directions of one of the Acts, they have deposited in the Office of the Secretary of State, and a copy of which is herewith submitted for the information of the Legislature.

The Commissioners further report, that pursuant to the last section of the Act entitled "An Act authorising the purchase of an additional quantity of Ordnance, arms and ammunition for the use of this State, and for other purposes," passed April 8th, 1808, they have sanctioned the opening and extending of Bridge Street in the City of New York, in continuation from its present limits to the battery.

Daniel D. Tompkins,
Jno. Broome,
John Lansing, Junr.
James Kent.
DeWitt Clinton

N. B. Here follows the deed—not necessary to copy.

* The first record of horse artillery appears in the Minutes of the Council of Appointment under date of January 30, 1809, when were commissioned Silvenus Towsley, captain; John James, first lieutenant, and Simon D. Wattles, second lieutenant, company of horse artillery of Onondaga County, permission having been given Towsley to organize the company on January 16th, 1808.—STATE HISTORIAN.

FOR A STATE STANDARD OF LONG MEASURE.

Gentlemen: The necessity of immediate Legislative provision upon the subject of the enclosed communication of the Secretary of State, induces me to recommend it to your attention at the present session.

Daniel D. Tompkins

Albany Nov. 3rd, 1808.

Secretary's Office,

November 3rd, 1808.

Sir: By an Act passed at the last session of the Legislature entitled "An Act to direct the Secretary to procure a state standard of Long measure, and for other purposes," the Secretary is directed to procure two steel, brass or copper rods, of the same length of a certain brass standard three feet rod, English measure, belonging to the corporation of the City of New York. Soon after the adjournment of the legislature I wrote to the Clerk of the City and County of New York, and requested him to procure two rods to be made, in conformity to the Standard referred to in the Act. He informed me, in answer to my application, that no such standard was in possession of the corporation, but that he understood a Mr. Hardenbrook had a three foot rod, which was made in England, in conformity to the British exchequer standard. Considering that the object of the Act would be complied with as far as related to the procurement of a correct standard measure, I directed two rods to be made in conformity to the one in Mr. Hardenbrook's possession. But this not being the standard referred to in the act, which contains an important provision that takes effect in April next, whereby a surveyor is precluded from giving testimony in any court in this state, respecting the lines of survey made by him, unless he can swear that the chain used by him was conformable to the standard measure of this state, legislative interference becomes necessary to establish the rod now procured as the state standard. I take the liberty also, of suggesting the propriety of making it the duty of the secretary to procure all the rods to be made for the several counties of this state at their expence; such a provision will ensure a uniformity in the several county standards, and will probably expedite the distribution in the mode best calculated to promote the object of the Legislature.

With great respect and consideration, I am your Excellency's, Obedient Servant,

Elisha Jenkins.

His Excellency, Daniel D. Tompkins, Governor.

REGARDING LIGHT HOUSES, FORTIFICATIONS AND ARSENALS.

Gentlemen: The title of Ellis's or Oyster Island, in the Bay of New York, has been obtained by a course of proceedings in the Court of Chancery, authorized by the Act supplementary to the Act, to cede the jurisdiction of certain lands in this state, to the United States, was thereupon executed, pursuant to the said act.

The proprietor of Sands' or Watch-Point, contracted with me for the sale of five acres, for the purpose of erecting a light

house; and accordingly conveyed the said Five Acres to the people of this state. After which, the same, in conformity to the provisions of the Act, entitled, "An Act to facilitate the purchase of lands for the erection of a light house at North Hempsted were granted to the United States; and for the purpose of vesting the jurisdiction, the requisite certificate describing the said five acres, has been duly filed in the office of the Secretary of State.

The system of fortifications upon which I have concluded to proceed in the expenditure of One hundred thousand Dollars, appropriated for that purpose, is fully explained in the annexed official Letter of Col. Williams.*

The Accounts of disbursements under the Act for the defence of the Northern and Western frontiers, are also under the Act for erecting a state arsenal in the City of New York, are also hereunto annexed. Two of the lots or blocks of ground offered by the Corporation in exchange for the old arsenal have been obtained: the building erected is calculated to accommodate all the ordnance, arms, and military stores in the City of New York. With the utmost economy, the appropriation was exhausted, before the edifice was entirely finished. To have suffered the building to remain in that state, would have exposed it to great injury from weather, and would have left a considerable portion of the public property in an unsafe situation. It was therefore deemed prudent and necessary to proceed and finish the building. The additional sum required for this purpose, is exhibited by the balance of the Arsenal Account. To obviate the necessity of an appropriation in money to defray that balance, and to erect the work shops and gun houses, &c. I beg leave to

*See page 138 et seq.

recommend the sale of two small gores of land belonging to the State, in the vicinity of the government house, in the City of New York. In consequence of a cession, by the commissioners appointed for that purpose, of a part of the public ground to the United States, for an Arsenal, and of another part to the corporation of New York, for the extension of Bridge Street, those two gores have been separated from the land of the State, connected with the Government house, and are almost useless for public purposes.

The quantity of ground to be procured for a powder magazine, was limited to one half acre. Upon enquiry, and after earnest endeavors to accomplish the requisite purchase, it was ascertained that individuals, to whom the purpose to which the ground was intended to be applied, was disclosed, would not dispose of that quantity without an extravagant consideration. An application was therefore made to the Corporation of New York, who were so liberal as to enable me to purchase the leasehold estate, and their reversionary interest in a lot of land, containing, by estimation, ten acres, inclusive of streets for Two thousand five hundred Dollars. The lot is nearly square, and is bounded on the sides of streets opened, and to be opened. As the title is in fee simple, and as ground in the vicinity of the city of New York, is constantly increasing in value, I feel confident that the Legislature will be gratified in my having availed the state of the liberality of the corporation, in obtaining a larger quantity of ground than was contemplated at the time of passing the Act.

Daniel D. Tompkins.

Albany, 4th Nov. 1808.

GOVERNOR TOMPKINS TO THE FORTIFICATION COMMISSIONERS FOR
THE DEFENCE OF NEW YORK.

Albany, November 17, 1808.

Gentlemen: My official duties and my residence in this City will prevent my taking a Superintending control of the Fortifications to be erected under the authority of this State for the Defence of the City of New York. I will, therefore, thank you to take that charge as Commissioners subject to such directions engagements and regulations as I have already given or made, or may hereafter think proper to adopt.

I have engaged Mr. Cutbush as Engineer to attend at the Works. Col'l Williams has been so obliging also, as to offer his advice and assistance as to the plans &c. which ought to be accepted and respected as the system was furnished by him at my request. Perhaps the Commissioners may not find it necessary to hire an office during the winter, but in the spring I shall have no objections to pay for a convenient Room, stationery and other needful expenses; and they may immediately employ a clerk to keep the minutes and do all other business appertaining to such an office. His compensation shall be at such rate as the commissioners shall think proper to establish. The expenses of the board at their office, and in their necessary visits to the Narrows or other places for the advancement of the Works or the purchase of the materials will also be allowed.

The importance of the object for which you will be engaged, to the City and State of New York, induces me to hope that you will undertake this business without other compensation than the payment of Expenses.

Should it be found necessary to straighten the line of the Property belonging to the State referred to in Col. Williams

official letter the Commissioners will please to make the necessary arrangements for that purpose, with Mr. Jackson the owner. Mr. Arthur Smith will be the Superintendent of the mason work, and Messrs. Westervells, Little, Stagg and Vadney will be the Masons under him; Messrs. Ford and Crane are to do the Carpenters work, and Messrs. Labagh and Hilliman the cutters. The Clerks, Superintendants of labourers &c. will be appointed by the Commissioners. Only one head mason in addition to the Superintendant, ought to receive pay and they should arrange amongst themselves the tour of duty. The Commissioners will decide upon the mode of procuring and conveying materials for the works and will make every other arrangement necessary to proceed as expeditiously as may be consistent with economy and the durability of the fortifications.

They will also decide upon the propriety of furnishing rations to the labourers and of regulating their compensation accordingly. Should it be found that the materials for the Wall can be prepared during the Winter by the foot or perch upon reasonable terms, and that labourers can work advantageously in digging or levelling ground during that season the Commissioners may permit them to proceed if the wages are proportioned to the shortness of the days. And should it be found that less expense will be incurred by hiring labourers who will board themselves, in that case the Commissioners need not provide for a supply of rations.

A copy of Col. Williams' official letter and of the ground plan of the work to be erected are enclosed.

Honbl. De Witt Clinton, Arthur Smith, Esqr., James Farlie,
Esqr., Genl. Jacob Morton, Col'l Peter Curtenius.

THE GOVERNOR LAYS CLAIM IN BEHALF OF THE STATE FOR THE
ORDNANCE IN THE FORTS IN NEW YORK HARBOR.

Albany, November 26, 1808.

Dear Sir: I have written to the Secretary of War informing him of the result of my enquiries relative to the property of the Cannon and military stores in the fortifications erected in the harbour of New York by the Commissioners of this State. It appears they do not belong to the United States but exclusively to this State. You are not, however, to interfere in any claim, or removal of the property until I receive the answer of the Secretary of War and Issue Orders for that purpose to you. In the mean time, I wish you to send me an exact account of, and copies of the receipts for military stores advanced to the United States for transportation to Algiers or Tripoli and for the Troops who marched to quell the Insurrection in Pennsylvania.

John McLean, Esqre.

THE GOVERNOR PROVES BY THE RECORD THAT THE STATE, NOT THE
NATION, OWNS THE ORDNANCE IN THE NEW YORK HARBOR
FORTIFICATIONS.

Albany, November 26, 1808.

Sir: Since my arrival in Albany I have investigated the validity of your claim on the behalf of the United States to the Cannon and equipments which were at the fortifications near the City of New York. As those which were upon the Old Battery had been for a number of years in the exclusive possession of the State and had been repaired at our Expense, I was somewhat astonished at your suggestion that they belonged to the United States. And my enquiries have satisfied me that

not only the Cannon and equipments now lying upon the Arsenal ground near the Old Battery, but also that many of those upon the Islands are the Exclusive property of this State.

To convince you that this is the case, I beg leave to refer you to a letter of Samuel Jones, Comptroller of the State of New York, to Oliver Wolcott, Secretary of the Treasury, dated Albany 28th August 1799, from which it will appear, that the sum for which the State of New York received credit of the United States was, exclusive of voluntary labor at the Fortifications, exclusive of the Sum expended in 1798 in fortifying New York, and exclusive of the Monies appropriated and expended for procuring and equipping cannon &c. You will also find in the Treasurer's office, a letter from John V. Henry, Comptroller of this State, (who succeeded Mr. Jones), dated Albany 10th October 1800, proposing to transfer the Cannon and Military stores, then in or appertaining to the fortifications, to the United States and to receive a credit therefor at what they cost the State, including all charges. To this letter, the Secretary of the Treasury (Oliver Wolcott) on the 18th of November 1800, answered, that he did not conceive himself authorised to make any stipulation concerning the Cannon and Military Stores at those fortifications, but that, if Congress should authorise the acceptance of them by the United States he had no doubt, that the terms on which the transfer might be made would be easily and satisfactorily settled. Since that answer no credit has been given the State of New York on that or any other account as far as I am able to learn. Neither is any correspondence to be found touching the subject. I am, therefore, confident that upon an examination of the documents to which I have referred, you will not hesitate to transmit direc-

tions to Captain Whiley to permit the Commissary of this State immediately to remove all the Cannon implements &c. which are exposed at the Arsenal lot near the Battery, and that you will propose some satisfactory method by which the property on the Islands, belonging to this State, may be identified and marked to distinguish it from that of the United States.

To Genl. Dearborn, Sect'y of War.

THE GOVERNOR BRINGS SERIOUS ALLEGATIONS AGAINST THE CUSTOMS
COLLECTORS AT CHAMPLAIN, OSWEGO AND SACKET HARBOR.

Albany, Decr. 1, 1808.

Dear Sir: Believing that you repose confidence in the official integrity of Mr. Woolsey, Collector of Champlain District, I have foreborne to communicate to you a variety of unofficial representations which have been made to me relative to the suspicions and uneasiness at his conduct, which prevail almost universally amongst those friends to the Government and to the faithful executions of the laws. I, however, deem it an indispensable duty to apprise the Government of such official details as have been made to me and shall leave the history of private communications until I may be called upon to disclose them.

The report of my aid, Col. Rodman, adds strength to the suspicions which I previously began to entertain of Genl. Woolsey's fidelity; and the enclosed extract of Col. Simonds report, though not specific as to the Collectors to whom want of official integrity is to be ascribed, seems to support the opinion of Mr. Rodman. The object of transmitting these to you is to awaken enquiry into the conduct of your Collector in that quarter; and for the purpose of enabling you to do this the more effectually, I will mention that an application from your Department to

either of the following Gentlemen will probably produce a history of many of the transactions which have been unofficially mentioned to me: Col. Simonds and his Adjutant, Lieutenant Beebee, now at this place; Peter Saily; Col. Durand; Judge Kin-ner Newcomb, Melancton Smith, Henry Delord, Charles Platt and Thomas Tredwell (formerly member of Congress) all living at or near Plattsburgh; Mr. Platt, Deputy Marshal, & a Lieutenant of Artillery who commands a Detachment there from the Eastward—Jonathan Lynde, Esqr., Judge Pond, Judge Isaac Kellogg and Simeon Frisbee Clerk of Essex County and General David Thomas, Treasurer of this State recently, from Washington County. With respect to Mr. Burt, at Oswego, the accounts from Col. Simonds and his Lieutenant confirm the accuracy of Col. Livingston's report, namely, that the Collector appeared to be honest—but was wavering and undecided in his conduct. I may add that information from other sources partly corroborates the charge made by Sackett that the man is considerably addicted to liquor which may account for some apparent stupidity and liability to imposition.

As to Mr. Massy, I believe he intends well, but I am afraid he is not too intelligent and that he is liable to be imposed upon by those who flatter him or in whom he confides, and have no doubt the most of those are men who on account of their evasions and countenancing in others the evasions of the Embargo laws are unworthy of his confidence.

With the Collector at Lewiston, I am unacquainted but am recently informed that affidavits of facts will soon be forwarded to Government in relation to a certain Robbery said to have taken place and published in the papers which will place the conduct of the Collector there in a sensureable point of view.

Although neither Col. Rodman or Col. Simonds have requested it, yet I should prefer that their reports might be considered as confidential until further enquiry be made into the Collector's conduct from your Department.

The Honb. Albert Gallatin.

THE GOVERNOR COMPLIMENTS CAPTAIN JACOB HAIGHT FOR VOLUNTEERING WITH HIS COMPANY.

Albany, 5 December, 1808.

Sir: I acknowledge with unusual satisfaction the receipt of your letter communicating a tender of the Services of the Company of Union Volunteers under your Command, accompanied by a regular inspection return and a Roll Subscribed by the officers and fifty seven non commissioned officers, Musicians and privates. The Readiness with which this respectable company offered their services as part of the last detachment and the promptitude with which they have Volunteered on the present occasion under the Act of the United States "authorising the President to accept the services of a number of volunteer Companies not exceeding thirty thousand men" evinces a spirit highly honorable to them and furnishes to their fellow Citizens of the different Military Corps an example worthy of imitation.

Be pleased, Sir, to accept for yourself and communicate to your Subalterns and privates of your company the assurance of my sincere thanks for this renewed instance of their patriotism and military ardor.

Capt. Jacob Haight.

AND A SIMILAR COMPLIMENT TO CAPTAIN ANDREW BROWN OF
PITTSBOWN.

Albany, December 12, 1808.

Sir: I have the honor to acknowledge the receipt of your letter containing a voluntary offer of the services of yourself and the Subalterns and Company of artillery under your Command as part of the Detachment of 100,000 men. The Military ambition and Patriotic ardor displayed in the Communication which announces this liberal tender, reflects the highest honor upon the Officers and Soldiers of the company, and furnishes an Example worthy of the imitation of their Brethren of the Uniform Corps.

The character of our State is highly exalted by such generous pledges of its citizens, to protect its inestimable rights and privileges and to support at every hazard the honor and independence of the United States.

Be pleased, Sir, to make known to the officers and privates of your Company, my chearful acceptance of their services and the high estimation with which I regard their patriotism and Soldierly conduct.

Capt. Andw. Brown, Pittstown, Rensselaer County.

THE GOVERNOR SUBMITS A LIST OF EXPENSES, INCLUDING INCIDENTALS, TO GENERAL DEARBORN.

Albany, 12 December, 1808.

Dear Sir: Inclosed is my account of Expenditures in relation to a Detachment of the Militia of this State ordered into service in the District of Champlain by Express desire of the Sec-

retary of the Treasury in behalf of the United States Government in September last.*

I do not know that any objection will be made to the allowance of it but if there should be, I take the liberty of Noticing and Explaining the several Items.

The first charge for the pay of Captain Stevenson's Company admits of no doubt—the second for cloathing \$177.90 is equally just, but owing to the difficulty of procuring the receipt Roll therefor in season, I have sent on the receipt of the Captain only. I am informed the men have all been duly paid their proportion of that sum, but no receipt roll therefor being yet forwarded and I being somewhat in need of having a part of my Expenditures in this business refunded, have sent you the Captain's receipt, which I hope will be deemed a sufficient Voucher therefor.

The Pay Roll of Captain Delances Company includes the compensation for cloathing and is I presume the regular voucher for the charge of \$738.85.

The three charges for contingent expenses namely, \$14.64, \$44.80 and \$35.94 have been advanced under a sense of Justice and propriety; a part of the Detachment had to travel upward of 60 miles to the place of Rendezvous (Plattsburgh) which took them 4 or 5 days on account of the almost impassable state of the Roads. The fatigue and expense incident to such a Journey and the Supply of the Corps for several days after their arrival and before any contract for Rations could be made, called for some seasonable supplies on my part, and I am perfectly Satisfied that the little advances made on that account, and on ac-

*For an account of the Disturbances following the Embargo, see Military Papers of Daniel D. Tompkins, Vol I, pages 194-197, with footnotes, pages 194-196.—STATE HISTORIAN.

count of medicine &c were no more than in honor and Justice I was bound to do.

The account of Colonel Rodman certainly amounts to no more than what will reimburse his actual expenses.

He was sent from Hudson on the North River, and had a very tedious journey both to and from the Frontiers, and was industriously and Expensively occupied while there. My reasons for sending him were: 1st, My Adjutant General was sick and could not go; 2ndly, I was apprehensive that the officers in the Neighbourhood of the Lake, might be a little prone to favor the speculations going on and would therefore assign to the Detachment such officers as might wink at the evasions of the Embargo Laws.

3rdly, I was fearful that they might assign a Field officer, Adjutant, Quarter Master, paymaster & Surgeon which would have greatly enhanced the expense, and, 4thly, My fears were alive lest by Combination the Rations could not be obtained, except at an enormous price. Whereas by sending Colonel Rodman, all the expense of such Field and Staff was avoided and the Rations were supplied at 14 cents 8 mills, which is considerably less than the United States Contract. I therefore feel confident that you will deem the account as reasonable and economical as was possible under the embarrassments and difficulties incident to a Detachment on the Frontier; and that it will be paid without hesitation. There were no Barracks or Tents, and the Militia were supplied with arms and ammunition at the expense of the State, for which no charge is made.

The accounts for the Detachment at Oswego are not yet Complete for the want of some documents which have not yet been transmitted.

It was impossible for Mr. Rodman to obtain any other receipt for the pay Roll before he left Plattsburgh than from the officers, because the men were at the time of the Expiration of Service scattered in detachments—some were at White Hall—some at Champlain—some at Chazy—some at Cumberland Head and some at Plattsburgh. The amount of Stephenson's pay Roll Mr. Rodman paid before he left Plattsburgh and the amount of Delance's, he left with Peter Sailley, who has since paid the same to the officers of that Company, they being then at some distance from Plattsburgh.

Both Captains are to forward Rolls receipted by each individual as soon as possible. If those are necessary to be forwarded by me before my account can be allowed, I will thank you to inform me of it and point out such other evidence as may be required to substantiate the account. If, however, my receipt to the account will be a sufficient voucher to the United States, and the account is satisfactory, I shall be obliged by having an Order or Check therefor transmitted to me. Every Cent of the charges has been advanced by me some time since, and there now exists no claim against the United States for pay, cloathing and contingent expenses of this Detachment except my demand.

The Hon'ble Henry Dearborn.

P. S. Although Lynde's a/c for Rations supplied before a Contract was made is not receipted, it has nevertheless been long since paid.

THE GOVERNOR MAKES A REQUISITION UPON CAPTAIN WHILEY FOR
NEW YORK'S ORDNANCE IN THE HARBOR FORTS.

Albany, December 15, 1808.

Sir: I take the liberty of enclosing to you a correspondence with the Secretary at War* respecting his claim in behalf of the United States, to the Cannon, ball &c on the Ground ceded for an arsenal and to those on Governor's, Bedlow's and Ellis's Islands at the time the United States began to occupy and fortify those places.

You may remember that when you visited the Magazine at Potters field with the Secretary and Colonel Williams, this claim was suggested and asserted: in consequence of which, the Commissary of Military Stores was directed by me to desist from the removal of the Military Stores, lying on the ground Ceded to the United States for an arsenal. Since that period I have investigated the validity of the Claim and am now satisfied, and you will perceive by the enclosed answer that General Dearborn is also Satisfied, that all the Cannon, balls, shells and Military Stores in the fortifications about New York which were originally purchased by the State of New York still belong to us. I, therefore, hope you will have no objection to permit the Commissary of Military Stores to remove to our New Arsenal the

*War Department December 8, 1808.

His Excellency Daniel D. Tompkins,

Sir, Since the receipt of your Excellency's letter of the 25th ult. I have had a further investigation made relative to the cannon and other military stores respecting which doubts have existed whether they were the property of the United States or of the State of New York. On reference to the Department of the Treasury for ascertaining the facts alluded to in your Excellency's letter it appears that the late Secretary of that Department did not consider cannon, cannon ball &c. necessarily attached to fortifications for the Defence of the harbour and City of New York as comprised in that act of Congress authorising a credit to the state for erecting enlarging and completing said fortifications. Of course the Cannon and other military Stores provided at the expence of the State remain the property of the State and consequently at her disposal.

I have the honor to be with very great respect Your Excellency's Ob. Servt.

H. Dearborn.

property on the lot near the Old Battery. The identification and removal of the Articles on the several Islands belonging to us will be the subject of future arrangements.

Capt'n R. Whiley.

THE GOVERNOR DIRECTS COMMISSARY M'LEAN TO TAKE POSSESSION
OF NEW YORK'S ORDNANCE IN THE FEDERAL FORTS.

Albany, 15 December, 1808.

Dear Sir: I enclose you a copy of my correspondence with Genl. Dearborn relative to the claim of the United States, to the Cannon Carriages, ball, shells, and Military Stores on the Arsenal ground, at the Battery, and in the fortifications about New York; by which you will perceive that the claim of the United States thereto is totally abandoned.

You are, therefore, instructed to introduce this business to Captain Whiley with delicacy and good humour and with his consent, to remove to our New Arsenal, the articles, now remaining upon the ground, near the Battery lately ceded to the United States.

The Cannon &c on the several Islands will be the Subject of future arrangements. I have enclosed to Captain Whiley, Genl. Dearborn's answer, with a request that he will consent to your proceeding in the removal of the property in the Arsenal Yard.

You will please to recollect my directions to transmit an account of the articles loaned the United States for Tripoli or Algiers, and for the Expedition against the Insurgents in Pennsylvania; and also to cause to be made and sent to me an accurate Survey of the two gores of Ground, near the Battery which the Legislature have authorised me to sell to complete

the New Arsenal. I am a little surprised at not having heard from you upon these subjects before this time.

John McLean, Esq're, Com'y M. Stores

THE GOVERNOR CONSULTS GENERAL KING ON A QUESTION OF COMMAND BETWEEN HIMSELF AND GENERAL GERMAN.

Albany, 16 December, 1808.

Genl. Nathaniel King:

Dear Sir: It is probable that in a short time the Fifth Division of Infantry will be organized into three Divisions, pursuant to the power contained in the Act relative to the Militia passed at the last session. In one subdivision it will probably fall to the lot of General German or yourself to be Major General. I perceive by the books, that before the separation of the Chenango and Madison Brigades, you were both Colonels in the same Brigade and that General German was the Senior Colonel. On this account I was informed last Winter that you would not probably dispute the right of promotion with him in this Instance. As it may be necessary for me soon to act in the business, I will thank you to inform me whether the Assignment of Genl. German to the command of one of the contemplated Divisions, if the same should embrace both Chenango and Madison, will be agreeable to you.*

GOVERNOR TOMPKINS REBUKES THE MISDIRECTED PATRIOTISM OF THE ALBANY RIFLE CORPS.

Albany, 17 December, 1808.

Gentlemen: The Resolutions of the Albany Rifle Corps presented by you have received an attentive perusal and consideration.

*General King, not General German, was appointed major general.—STATE HISTORIAN.

The only requisition of the militia of this State is for the detachment and organization of our quota of One hundred thousand men.

As a part thereof, I have been authorized, and have accordingly, by General Orders of the 15th November ulto. stipulated to accept and empowered General and Field Officers to accept, the services of such companies as might elect to volunteer, pursuant to the Act of Congress authorizing the President to accept the services of a number of volunteer companies not exceeding thirty thousand men " passed 24th February 1807, or under the " act authorizing a Detachment from the Militia of the United States," passed 30th March 1808. I cannot discover in the Resolutions of the Albany Rifle Corps any intention to volunteer under either of those laws and therefore, it is not within the scope of my authority to consider them as part of that Detachment in consequence of resolutions tendering their services upon certain conditions and with such restrictions, modifications and exceptions as they have thought proper to annex.

The amount of the Resolutions *so qualified*, is no more than a promise and engagement on their part, to perform what the laws of the Land require of every member of the Militia, and what I presume, every patriotic citizen would cheerfully do without the obligation of law, namely to defend his Country against an invading Foe. It has perhaps escaped the observation of the Company that by the Militia law of this State, they are already subject to March upon *such emergency*, when ever the Commander in Chief, or Major General, Brigadier General, or Colonel, Shall direct.

It requires no more than a reasonable and just confidence in the Government and laws of our Country to produce a belief

that "an independent Yeomanry" will never be compelled wantonly "to embrue their Bayonets in the blood of their fellow Citizens"; and upon the fidelity and bravery of such officers and soldiers as do not repose confidence in them to that extent, little reliance can be placed by their Country at a crisis which may call for the venerated spirit of 76. The allusion in the third Resolution, therefore, evidently Calculated to inspire an unmerited distrust of the Government and Laws; and the singular qualifications which the Corps attaches to its professions of willingness to repair to arms, cannot fail to excite feelings of sincere regret.

It will give me pleasure to receive an unqualified tender of the services of the Albany Rifle Corps; but it Neither Comports with their dignity, patriotism or bravery, nor with the authority of acceptance vested in me to organize and embody them as part of the detachment under the resolutions presented to me. By a compliance with which, this particular Corps would be screened from sacrifices and dangers which their fellow citizens of the Detachment might be obliged to encounter, and which I trust they will encounter with cheerfulness and Bravery.

To Mr. Benjamin H. Meigs, Mr. Sanford Cobb and Mr. Rhodolphus Crane.

THE GOVERNOR ACCEPTS THE TENDER OF CAPTAIN MOORE AND HIS
COMPANY OF CAVALRY.

Albany, 19 December, 1808.

Sir: I have the honor to acknowledge the receipt of your letter of the 15th Instant announcing the tender of the services of yourself, your Subalterns and company of Cavalry pursuant the Act of Congress, "authorizing the President to accept the

services of a number of volunteer companies not exceeding Thirty thousand men," passed 24th Feby. 1807, and beg leave to inform you of my acceptance thereof as part of our quota of the Detachment of 100,000 men.

This renewed proof of the devotedness of that Corps to defend the Honor and Independence of their Country, not only evinces that they duly appreciate, and are determined to maintain untarnished, the character of soldiers, but furnishes additional evidence of the implicit reliance which may be reposed in the virtue and bravery of the militia, when their dearest rights are jeopardized.

Your patriotic offer will be communicated to the President of the United States and I doubt not that he will accept it with the same grateful feelings which it has excited in me.

I desire you and the Subalterns and privates of the Company to accept the assurance that I highly approve and duly appreciate their prompt and generous request to be enrolled amongst those Citizens who in the event of War, will share its earliest toils and dangers.

Capt'n Appollos Moore.

THE GOVERNOR WILLING TO SELL A PLOT OF GROUND IN NEW YORK
TO ARCHIBALD GRACIE AT PRIVATE SALE.

Albany, 20 December, 1808.

Dear Sir: I have directed to be made and received by the last evening's mail, an accurate survey of the Two lots of Ground which at their late extra session the Legislature have authorized me to sell.

The one which is contiguous to you, is 124 feet on State street fronting the Battery—28 feet on Bridge street as ceded—14 feet

8 inches on Pearl street, and the length of the Easterly side is the same as the Westerly side of your property, supposed to be about 130 feet.

The mode of sale is not specially directed by the law; although at public auction seems to be the most equitable and least likely to expose me to any censure for having sacrificed or partially disposed of the property. I, however, know the convenience and importance of that lot to you and am also tolerably well acquainted with its situation and value to any purchaser. The plan of Building may wholly preclude the possibility of annoyance from any stable or other Edifice to be erected on the rear of your lot (by building with a double front to State street on the corner of Bridge street); whilst on the other hand the end of this lot on Pearl street is the only place on which any other purchaser but yourself could erect a stable which would essentially destroy the value, pleasure and convenience of your present residence. Under these considerations, I have deemed it proper to tender you that lot at private sale, provided you make at once an offer for it, which appears to be its full value and such an One as a faithful public agent would be justified in accepting without a trial at auction. Be pleased, therefore, to let me know as soon as possible what sum you are content to give, at private sale. If such offer does not appear to me to be the full value of the lot, I will immediately apprise you of it, and expose it to public sale. If, on the contrary, you suppose an offer on such conditions would be prejudicial to you and should therefore decline it, I will thank you to inform me of that determination without delay, as there exists a necessity for speedily disposing of the property.

The terms of payment will be one half cash on the delivery of the Deeds, and the residue, duly secured with Interest on the first of May next, or in two payments, on the first of April and July, as may best suit. I shall wait 8 days for your answer.

In ordinary cases a proposal for a purchaser to make the first offer might not appear altogether liberal and Correct, but in the present instance, as no advantage can be taken of your offer, inasmuch as the property belongs to the public, and must be sold at all events, I presume you will deem my proposition correct and honorable. Indeed I should not have resorted to it, but from a wish to oblige you, and in consequence of enquiries made by several of your friends whether I would sell this lot at private sale.

Permit me to remark that but one offer for private Sale can be taken into consideration, and that must be a liberal one, otherwise I must proceed without further hesitation to a sale at auction, at which I shall take care that no sacrifice be made, if I am obliged to become the purchaser myself.

Archibald Gracie, Esqr. New York.

THE GOVERNOR EXPRESSES WORDS OF EULOGY FOR CAPTAIN
LOCKWOOD'S ALBANY RIFLE COMPANY.

Albany, 21 December, 1808.

Sir: Your communication announcing the Resolution of the Albany Rifle Company proffering their services as part of the Detachment of One Hundred thousand men has this day been presented to me.

It yields me great satisfaction to observe that a corps so recently organized, has, by the enterprise and military zeal of

its officers and members, become distinguished for numbers equipments and discipline and I am highly gratified to notice them among the foremost to devote themselves to the service of our Country at an eventful and interesting Crisis.

These considerations afford a pleasing presage of future usefulness and redound to the honor of the City of Albany and the State of New York.

Your kind wishes for my health and welfare receive my grateful acknowledgements. With a thankful acceptance of the Patriotic offer of the services of yourself, your Subalterns and Company, permit me to express my good wishes for their prosperity and happiness and my ardent expectation that should the good of our Country ever require the Detachment to repair to the field of Battle, that it will prove to the Albany Rifle Company the scene of Honor and Glory.

Capt'n Lockwood.

THE GOVERNOR COMPLIMENTS THE HUDSON ARTILLERY COMPANY FOR
THEIR PATRIOTISM.

Albany, 21 December, 1808.

Sir: I trust it will be recorded to the honor of the State of New York that its Militia vies in Emulation to be enrolled among the brave Citizens who are now arraying themselves in Defence of our outraged rights and Sovereignty. The tender of the services of the Hudson Artillery Company as part of the thirty thousand volunteers whom the President by an Act of Congress is authorized to accept, is an additional evidence of this laudable and patriotic enthusiasm.

The firmness with which they resolve to sacrifice private interest to the promotion of public good, and personal safety to

the preservation of liberty and Independence, adds lustre to their character as Citizens and Soldiers. Be assured, Sir, that I accept their pledge with sentiments of respect for them and with ardent wishes for their prosperity and happiness.

Should the feeble hope of a returning sense of Justice in foreign belligerents prove fallacious, and our Country be constrained to resort to arms, I entertain the strongest confidence, that the Hudson Artillery Company will evince to the World the Sincerity of the gallant assurances with which the proffer of their Services is accompanied.

Capt'n Will'm Wigton.

THE GOVERNOR'S WARM TRIBUTE TO MAJOR FRANCIS M'CLURE'S
BATTALION OF RIFLEMEN.

Albany, 21 December, 1808.

Sir: That generous glow of patriotism which animates the bosom of freemen and stimulates them to sacrifice any personal enjoyment, nay even life itself, in defence of their country's rights forms a trait in the human character equally lovely and exalted.

At a period when this hitherto tranquil abode of Freedom (her sole refuge upon Earth) is menaced by violence, when her Safety is jeopardized by insolent and unprecedented encroachments and injustice, it becomes her votaries promptly to interpose the Arm of Valour and testify their attachment and veneration.

The alacrity with which our native citizens have advanced to the service of their country, while it proves that they duly appreciate and are determined at every peril, to preserve the bless-

ings we enjoy, affords reflections highly consolatory to the friends of Liberty in every Clime.

The Gallant Sons of Erin have experienced the bitter fruits of persecution and Arbitrary power in their native soil: many of those who have sought an asylum in the United States justly value the privileges and happiness of a free Government. This is honorably and satisfactorily evinced by the unanimity, spirit and enthusiasm with which the Battalion of Riflemen under your command have enrolled themselves in support of the Government and laws of their adopted Country.

The numbers, discipline and respectability of the batalion are highly creditable to the officers and members who compose it, and the Patriotic Zeal displayed in their conduct on this occasion gives an Elevated rank to the Corps and commands my warmest praise. Be pleased, Sir, to announce to the Battalion, the grateful feelings with which I accept their tender and my best wishes for their welfare.

Major Francis McClure.

THE GOVERNOR TO MR. NATHANIEL G. INGRAHAM IN REGARD TO A
PERSONAL MATTER.

Albany, 23 December, 1808.

D'r Sir: Although it is not in my power fully to comply with the request contained in your letter of the 16th Instant, yet I have done so as far as appears to me to be correct.

Mr. L'Hommedieu's letter being on file in the Secretary's office, it was not at my option to withdraw it but have, nevertheless, obtained and sent you a copy. The same reason exists for furnishing a copy only of the recommendation of Jacob

Mott and others. I have also enclosed a copy of Mr. Russel's letter to me, but as that letter was from a friend whom I esteem and who probably designed it for my perusal only, I cannot consent that any publicity should be given to or any other use made of it than to satisfy *yourself* of its contents.

Mr. A. Phœnix and Mr. Jackson are among your relatives and intimate friends and, therefore, you are furnished with their original letters.

The note of Judge Livingston is to yourself and was merely shewn to the Council as the opinion of a learned and respectable Judge. It therefore belongs to you and the original is accordingly enclosed.

The originals or copies of letters to other Gentlemen than members of the Council and which may have been shewn to the latter for their information and advice cannot with propriety or honor be furnished to any other persons than those to whom they are directed.

Mr. Nath'l G. Ingraham.

CAPTAIN WILLIAM S. PARKER'S EFFORTS TO ORGANIZE A RIFLE CORPS.

Albany, January 15, 1809.

Sir: I have to apologise for not answering yours of the 29th December before this time. It was received a few days before the New Year and as I was much engaged about that time postponed an answer until the celebration of that event was over. The second day after New Year I went to Ballstown for the benefit of the Waters and during my absence the servants in settling my office so deranged my papers that it was not until yesterday that I again came across your letter. This is the

true cause of the delay. There will be no hesitation on my part to organize your company as a Rifle Corps, with rank from the day of your present commissions and to prescribe in orders your present uniform whenever the company are willing to accede to it.

There are no rifle corps to my knowledge within your brigade; of course the Commissions of the officers of your Company will be the oldest. There will soon be an application to organize a company of Rifle Men in that Brigade, but as your Commissions will relate back and give you rank from last June, the organization of such a company if it should take place would not prejudice you.

As to permitting the Company to retain muskets indefinitely, I could not correctly sanction it at present, but if owing to the scarcity of Rifles it should appear that it is not convenient to procure them within the year, I shall endeavour to prevent the dissolution thereof such companies as are enterprising and well equipped in other respects.

Capt'n Will'm S. Parker.

THE GOVERNOR ACCEPTS CAPTAIN FITZGERALD'S CAVALRY COMPANY.

Albany, January 18, 1809.

Sir: The benevolent mind must survey with sorrow the distress and misery which attend the unbounded rapacity and ambition of the European Potentates who are desolating the old world, and must sincerely deplore the unjust and oppressed measures which tend to involve our peaceful abode in the consequences of their sanguinary conflicts.

The preservation of peace unsullied by dishonor or the surrender of National independence is undoubtedly the prominent

object of the rulers of our country. But should their efforts for that purpose be defeated by a perseverance of the Belligerents in those measures which they have recently pursued, to which no independent mental power can submit, I entertain a hope that every American will rally round the Standard of his Country and to the utmost of his ability resist the invaders of his dearest rights and privileges.

The Company of Cavalry under your command, have displayed this laudable and genuine American Spirit in the prompt and cheerful tender of their services under the Act of Congress of 24 February 1807.

Permit me thro' you to convey to them my acceptance of their offer and my high approbation of their Patriotism.

Capt'n Edm'd Fitzgerald.

THE GOVERNOR ASKS PRESIDENT JEFFERSON FOR GUNS FOR THE FORT
AT THE STATEN ISLAND SIDE OF THE NARROWS (FORT WADSWORTH).

Albany, January 21, 1809.

Sir: Pursuant to a law of this State appropriating \$100,000 for fortifying the port and harbour of New York, operations have been begun at and near Signal Hill on Staten Island. A Water Battery on the beach directly under the Hill will be soon so far completed, as to receive from 25 to 30 Cannon. Excavated retiring Batteries at the Southerly point of the high ground are progressing rapidly, and will be prepared in about thirty days to mount 40 or 50 Cannon. A few rods Southerly of the observatory an open work calculated for 12 Guns will be finished during the ensuing week. All the preceding are

commanded by a redoubt to be established on the eminence at Signal Hill.* As the latter work is to be of masonry, the only measures which can be taken there until the opening of the Spring are procuring Materials, digging the ditches and sinking a Well, in which the Commissioners are rapidly progressing. A convenient road has been made for conveying materials from the shore to the high ground.

Barracks sufficiently capacious to accommodate 200 mechanics and labourers, have been erected and a wharf constructed for the convenience of landing materials. Upwards of 100 men are at present employed at the works at 25 cents and one ration per day, and in the course of the next week, the number will be augmented to 200.

The Commissioners having desired me to furnish the ordnance for the Batteries immediately, I find myself under the necessity of resorting to the General Government for some assistance. The State has 68 Iron twenty four and thirty two pounders, mounted on truck or Garrison Carriages. But the Guns are not so good, nor are the carriages so well constructed as to be fit for immediate service in those batteries. I am also authorized to procure for the State some additional Iron ordnance, but have not as yet been able to obtain such as are approved. Under these circumstances I take the liberty of enquiring whether the supply of the General Government is such that you would consent to provide the Batteries and Works erected by the State with the article of mounted Guns only? Should this request be assented to, I am persuaded the appropriation made by this State will upon the economical plan adopted by the Commissioners for its expenditure, complete a very essen-

*Signal Hill stands on the northeast section of Staten Island in the rear of Fort Wadsworth.

tial and valuable extension of the defensive operations pursuing under the United States. I beg leave to mention that by an Act of the Legislature of this State passed 20th March 1807, a copy of which I had the honor to enclose to the Secretary of War in April last, the lands on which the above mentioned batteries and redoubt were given to the United States for the purpose of fortifications, and as the board of public officers appointed by that Law are empowered to cede the Jurisdiction of any lands which may be required by the Presid't and are willing so to do, I trust that there can be no obstacle to a compliance with the above request arising upon the subject of Title or Jurisdiction.

Thomas Jefferson, President of The United States.

ANOTHER VACANCY IN THE BOARD OF REGENTS OF THE UNIVERSITY.

Gentlemen: It becomes my duty to inform you, that by the death of Peter Sylvester, Esqr.* a vacancy has occurred in the board of Regents of the University of this State.

Daniel D. Tompkins.

Albany 24th, January 1809.

THE GOVERNOR INFORMS GENERAL DEARBORN HE IS OVERWHELMED
WITH APPLICATIONS FOR COMMISSIONS—THE MILITIA AND THE
REGULARS.

Albany, January 27, 1809.

Sir: I had the honor of receiving your communication of the 18 Instant, and shall without delay attend to the selection of the Militia who can be depended upon near each post on our Northern and Western Frontiers. Altho' the powers and

*Peter Sylvester was appointed a Regent of the University April 13, 1787, and was succeeded Jan. 31, 1809, by Nathan Smith, of Herkimer County.—STATE HISTORIAN.

duties of Troops ordered into service are by the law which has recently passed, very plainly and satisfactorily defined, yet the mode of proceeding by the officer who is to be empowered to call them out, is left very much to the Instructions of the President. I would, therefore, respectfully suggest the propriety of furnishing the officer to be designated with very minute and specific instructions, and with all the forms necessary to a Compliance with the Rules of the War Office, in auditing military accounts, without which you may calculate upon much irregularity in that respect which will only produce embarrassment to the officer and finally dissatisfaction and murmuring that his accounts should be scrutinized by official rules of form, of which he is utterly ignorant. I shall take the liberty of nominating the officers to you by Monday's mail. I beg leave to ask your advice and instruction upon one or two subjects connected with the Detachment of 100,000 Militia. The President authorises the acceptance of the services of companies who volunteer under the 30,000 Act and also as part of the Detachment. It so happens that many of our most patriotic uniform companies are not full but contain generally from 30 to 60, and in some cases also all the members of the company volunteer except one or two. I have been in the habit heretofore of accepting the services of Companies in both cases, namely where the Company is not a full one and where two or three obstinate persons have dissented. Altho it will result from thus accepting that the regiment must be organized with a less number of men or with a greater number of officers than is usual to constitute a Regiment, yet this may be remedied when the Troops arrive at the place of Rendezvous for actual service. To reject the tender in such cases would discourage volunteering, which has

in this State, notwithstanding the dishonorable and unprincipled exertions of Federalists to prevent it, been very general. Some Field Officers having rejected tenders of services under such circumstances, I will thank you for your advice on the matter. By the Same mail which conveys this, I have transmitted a few recommendations for military offices, with separate remarks. I do not know whether the officers under the act for raising 50,000 Volunteers will be taken from the Militia or be appointed by the President without regarding their standing as Militia officers. If you will be so obliging as to inform me whether a Lieutenant Colonel of Cavalry Colonel of Artillery, or Major of Artillery which you informed me in New York were still vacant, are to come from this State, I will have suitable persons recommended to you, and a line from you informing me whether military appointments are to be made at present and if recommendations be fruitless, you will save me the unpleasant task of giving you unnecessary trouble for the Expectation of the 50,000 Act passing, draws upon me hundreds of earnest candidates for appointments, some of whom I cannot avoid recommending, unless I have information which enables me to assure them with truth that recommendations are unavailing.

Hon Henry Dearborn, Sect'y of War.

GENERAL BENJAMIN MOOERS APPOINTED TO THE COMMAND OF THE
CHAMPLAIN DISTRICT.

Albany, February 2, 1809.

D'r Sir: Pursuant to the President's request contained in the enclosed letter from the Secretary at War, I have taken the

liberty of designating and appointing you as the proper Militia officer to be empowered by the President to employ such part of the Militia of this State as may be Judged necessary in the district of the Champlain, pursuant to the 11th section of the Act of Congress entitled an "Act laying an Embargo on all ships and vessels in the ports and Harbours of the United States, and the several acts supplementary thereto" passed January 9, 1809.*

*Jan. 9, 1809.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if any person or persons shall put, place, or load on board any ship, vessel, boat or water craft, or into any cart, wagon, sled, or other carriage or vehicle, with or without wheels, any specie, goods, wares or merchandise, with intent to export, transport or convey the same without the United States or the territories thereof, to any foreign place, kingdom or country, or with intent to convey the same on board any foreign ship or vessel within or without the limits of the United States, or with the intent in any other manner to evade the acts to which this act is a supplement, all such specie, goods, wares and merchandise, and also the ship, vessel, boat, water craft, cart, wagon, sled, or other carriage or vehicle, on board, or in which the same may be so put, placed, or loaded as aforesaid, shall be forfeited, and the person or persons so putting, placing or loading the same as aforesaid, and also the aiders and abettors therein, shall, upon conviction, be adjudged guilty of a high misdemeanor, and fined a sum, by the court before which the conviction is had, equal to four times the value of such specie, goods, wares and merchandise: Provided however, that this section shall not be construed to extend to any person or persons, not being the owner or owners of such specie, goods, wares or merchandise, who shall first inform and make complaint to the collector of the district of any such offence committed within the same district; and any informer or informers, not being the owner or owners as aforesaid, upon conviction of the offenders, shall be entitled to one half of the fine aforesaid, when the same shall be received by the United States, and shall be entitled to a certificate for that purpose from the court before whom the conviction shall be had.

Sec. 2. And be it further enacted, That it shall not be lawful to put on board any ship, vessel, or boat of any description whatever, any specie or goods, wares or merchandise, either of domestic or foreign growth, produce, or manufacture, and the same, is hereby prohibited, unless a permit particularly stating the articles thus to be laden shall have been previously obtained from the collector of the district, in which such ship, vessel, or boat may then be, or from a revenue officer specially authorized by the collector to grant such permits; nor unless the lading shall be made under the inspection of the proper revenue officers, nor unless the owner or owners, consignee or factor of such ship, vessel, or boat shall, with the master, have given bond with one or more sureties to the United States, in a sum six times the value of the vessel and cargo, that the vessel shall not leave the port without a clearance, nor shall, when leaving the port, proceed to a foreign port or place, nor shall put any article on board of any other vessel; and that the whole cargo shall be relanded either in the port where the vessel may then be, or in such other port of the United States as shall be designated in the clearance. And it shall be lawful for the collectors of the customs to refuse permission to put any cargo on board any such ship, vessel, or boat, whenever in their opinion there is an intention to violate the embargo, or whenever they shall have received instructions to that effect by direction of the President of the United States: Provided, that nothing contained in this section shall be construed to extend to any ship, vessel, or boat, uniformly employed in the navigation only of bays, sounds, rivers and lakes, within the juris-

I have also enclosed you a copy of the Eleventh section of the act wherein the powers and duties of any military force to be employed are defined.

The Collector has by the same conveyance by which this is transmitted been notified of your appointment and of the necessity of applying to you whenever military aid becomes necessary.

I have also requested the Secretary at War to furnish blank forms for making such returns and rolls of any detachment

diction of the United States, which shall have obtained a general permission, agreeably to the provisions in the fourth section of this act.

Sec. 3. And be it further enacted, That the owner or owners, consignee or factor, of any ship, vessel, or boat, as described in the preceding section, which may, at the time when notice of this act shall be received at the several custom-houses respectively, be laden in whole or in part, shall, on notice given by the collector, either discharge such cargo or give bond for the same, in the manner and on the conditions mentioned in the preceding section; and if the cargo shall not be discharged within ten days or the bond given within three days after such notice, the ship, vessel, or boat and cargo shall be wholly forfeited: but the collectors are hereby authorized to order or to cause the cargoes of such vessels to be discharged for the same causes as they may refuse permission to put any cargo on board of vessels not yet laden in whole or in part. And they are likewise authorized in the meanwhile, and until the cargoes shall have been discharged, or bonds given, as the case may be, to take possession of such vessels, and to take such other measures as may be necessary to prevent their departure.

Sec. 4. And be it further enacted, That the collectors of the customs be, and they are hereby authorized to grant, under such general instructions as the President of the United States may give to that effect, a general permission to ships, vessels or boats, whose employment has uniformly been confined to the navigation of bays, sounds, rivers, or lakes within the jurisdiction of the United States, when it can be done without danger of the embargo being violated, to take on board at any time such articles of domestic or foreign growth as may be designated in such general permission or permissions, bond with one or more sureties being previously given to the United States by the owner, owners, consignee or factors of such ship, vessel, or boat, and by the master thereof, in an amount equal to three hundred dollars for each ton of the said vessel, that such vessel shall not, during the time limited in the condition of the bond, depart from any district of the United States, without having previously obtained a clearance, nor until the master or commander shall have delivered to the collector or surveyor of the port of departure a manifest of the whole cargo on board, that the said vessel shall not during the time above mentioned, proceed to any other port than that mentioned in her clearance, or put any article on board of any other vessel, or be employed in any foreign trade; and that on every voyage or trip, the whole of the cargo shall be landed in a port of the United States within the bay, sound, rivers or lakes, to which the navigation of such vessel is confined.

Sec. 5. And be it further enacted, That if any ship, vessel, or boat, not having received a general permission, and a general bond not having been first given in the manner provided for in the next preceding section, shall take on board any specie, or any goods, wares or merchandise, either of foreign or domestic growth, produce or manufacture, contrary to the provisions of the second section of this act, such ship, vessel, or boat, together with the species and goods, wares or merchandise, shall be wholly forfeited: and the owner or owners, agent, freighter or factors, master or commander of such ship, vessel or boat, shall moreover severally forfeit and pay a sum equal to the value of the ship, vessel or boat, and of the cargo put on board the same.

hereafter to be called into service as will comply with the forms and rules of that Detachment.

When they are received I shall have the pleasure of enclosing them to you.

Genl. Benjamin Moers.

P. S. As soon as I shall learn whether I shall be able to comply with your wishes communicated by Mr. Saily relative to the 50,000 volunteers, you shall be duly notified.*

*For New York's quota under the Federal Act of 30 March, 1808, see *Tompkins Papers*, Vol. I, pp. 203-205; for the distribution of the New York Militia in the spring of 1809, see *Tompkins Papers*, Vol. I, pp. 209-217.—STATE HISTORIAN.

Sec. 6. And be it further enacted, That the person or persons whose names do or may appear as owner or owners of any ship or vessel either on the certificate of registry, enrolment, or license of any ship or vessel, or if neither registered or licensed, on the last clearance or custom-house document issued before the passing of this act for such ship or vessel, shall be reputed as the true owner or owners of such ship or vessel, and be liable to the payment of all penalties which may be incurred by the owners of such ship or vessel, by reason of any violation of any of the provisions of this act, or of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, or of any of the acts supplementary thereto, by such ship or vessel: Provided always, that nothing in this section contained shall be construed to release any other person or persons from the payment of any penalty incurred by virtue of any of the acts aforesaid. And in case of any new register or license being granted during the continuance of the said acts, or in case of the sale of any ship or vessel neither registered or licensed, a bond with one or more sureties to the United States shall, previous to the granting any such new register or license, or to recognizing the sale of such vessel not registered or licensed, be required by the collector, in an amount equal to three hundred dollars for each ton of such ship or vessel, that such ship or vessel shall not, during the continuance of the acts laying an embargo on all ships and vessels in the ports and harbors of the United States, contravene or infringe any of the provisions of the said acts: Provided, that nothing herein contained, shall be construed to extend to the owner or owners of any ship or vessel who shall have made a bona fide sale of such ship or vessel, in any port or harbor of the United States, before notice of this act at such port or harbor, respectively: nor to the owner or owners of any ship or vessel, in any foreign port or place, who shall have made a bona fide sale thereof, before notice of this act: And provided also, that such bond shall not release the owners and master of such ship or vessel, or any other person from the obligation of giving every other bond required by this act or by any of the acts aforesaid.

Sec. 7. And be it further enacted, That in all cases where, either under this act, or under the act laying an embargo on all ships or vessels in the ports and harbors of the United States, or under any of the acts supplementary thereto, a bond has been or shall be given to the United States, with condition that certain goods, wares, and merchandise, or the cargo of a vessel shall be relanded in some port of the United States, the party or parties to such bond shall, within two months after the date of the same, (unless in the case of a voyage from New Orleans to an Atlantic port or from an Atlantic port to New Orleans, in either of which cases, four months shall as heretofore be allowed,) produce to the collector of the port from which the vessel had been cleared with such goods, wares, merchandise or cargo, a certificate of the relanding of the same from the collector of the proper port; on failure whereof, the bond shall be put in suit: and in every such suit, as well as in every suit instituted on a bond given for a voyage from or to New Orleans, judgment shall be given against the defendant or defendants, unless proof shall be given of such relanding, or of loss

COLLECTOR WOOLSEY NOTIFIED.

Albany, February 2, 1809.

Sir: The President has authorized me to name a Militia officer in the neighbourhood of the Port of which you are Collector for the purpose of employing such part of the Militia as may be deemed necessary in the district of Champlain according to the Eleventh section of the late Act to enforce and make more effectual the Embargo laws.

of the vessel at sea. But neither capture, distress, or any other accident whatever shall be pleaded or given in evidence in any such suit: Unless such capture shall be expressly proved to have been hostile, and such distress or accident occasioned by no negligence or deviation, nor unless such vessel shall have been from the commencement of the voyage wholly navigated by a master, mate or mates, mariners and crew, all of whom shall be citizens of the United States; nor unless such mate or mates, mariners and crew, shall all, if living, (and the proof of their death shall lie on the defendant) be produced on the trial, and sworn as competent witnesses: nor unless such master, mate or mates, mariners and crew shall have signed a shipping paper in due form of law, and a copy thereof designating specially the master, mate or mates, mariners and crew, and their permanent places of residence, shall have been lodged with the collector of the port, to whom the bond aforesaid shall have been given, before the commencement of the voyage, and subscribed and sworn to by the master before such collector; and any master who shall falsely, wilfully, and corruptly swear as to the facts contained in such copy, shall, on conviction, suffer the pains and penalties of perjury. And in every suit instituted on a bond, given as aforesaid, the defendants shall pay all costs, if they shall not within the limited time have produced the certificate of relanding to the collector of the proper port.

Sec. 8. And be it further enacted, That no registered or sea letter vessel, although in ballast, shall receive a clearance, or be permitted to depart from any port of the United States, unless the same bond shall have been previously given which is required from vessels licensed for the coasting trade, before they are allowed to depart. And if any such ship or vessel shall depart without bond having been given as aforesaid, the said ship or vessel shall be forfeited; and the owner, owners, agent, consignee, factor and master or commander of such ship or vessel, as well as any other person concerned in such prohibited departure, shall be liable to the same penalties imposed by law in the case of vessels licensed for the coasting trade departing without bond having been given, or without clearance, as aforesaid.

Sec. 9. And be it further enacted, That the collectors of all the districts of the United States shall, and they are hereby authorized to take into their custody specie or any articles of domestic growth, produce, or manufacture, found on board of any ship or vessel, boat or other water craft, when there is reason to believe that they are intended for exportation, or when in vessels, carts, wagons, sleighs, or any other carriage, or in any manner apparently on their way towards the territories of a foreign nation, or the vicinity thereof, or towards a place whence such articles are intended to be exported; and not to permit such articles to be removed, until bond with sufficient sureties shall have been given for the landing or delivery of the same in some place of the United States, whence, in the opinion of the collector, there shall not be any danger of such articles being exported.

Sec. 10. And be it further enacted, That the powers given to the collectors, either by this or any other act respecting the embargo, to refuse permission to put any cargo on board any vessel, boat, or other water craft, to detain any vessel, or to take into their custody any articles for the purpose of preventing violations of the embargo, shall be exercised in conformity with such instructions as the President may give, and such general rules as he may prescribe for that purpose, made in pursuance of

You are accordingly hereby notified, that Brigadier General Benjamin Moers has been designated and appointed for that purpose and you will accordingly apply to him for military aid to sustain the Custom House officers in the enforcement of the laws when ever in your opinion it becomes necessary and proper.

Genl. M. L. Woolsey.

ONEIDA INDIANS NEGOTIATE FOR THE SALE OF LANDS.

Gentlemen: Several of the Oneida nations of Indians have come to this city with a view to negotiate for the sale to the State of the land lying on the Fish Creek, between Bloomfield's bridge and the Oneida lake. It is therefore expedient that the Legislature should determine whether they will authorize such purchase.

Danl. D. Tompkins.

Feby. 11, 1809.

the powers aforesaid; which instructions and general rules the collectors shall be bound to obey: And if any action or suit be brought against any collector or other person acting under the directions of, and in pursuance of this act, he may plead the general issue, and give this act and the instructions and regulations of the President in evidence, for his justification and defence. And any person aggrieved by the acts of any collector, in either of the cases aforesaid, may file his petition before the district court of the district wherein the collector resides, stating the facts of his case, and thereupon, after due notice given to the district attorney and the collector, the said court may summarily hear and adjudge thereupon, as law and justice may require; and the judgment of said court, and the reason and facts whereon it is grounded, shall be filed among the records of said court; and if restoration of the property detained or taken in custody, or permission to load as aforesaid, shall be decreed, it shall be upon the party's giving such bond with sureties as is or shall be required to be taken in similar cases by the collector, and not otherwise; but if the said court shall adjudge against such petition, the collector shall be entitled to treble costs, which shall be taxed for him, and execution awarded accordingly by the court.

Sec. 11. And be it further enacted, That it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces or militia of the United States, or of the territories thereof as may be judged necessary, in conformity with the provisions of this and other acts respecting the embargo, for the purpose of preventing the illegal departure of any ship or vessel, or of detaining, taking possession of, and keeping in custody any ship or vessel, or of taking into custody and guarding any specie, or articles of domestic growth, produce or manufacture, and also for the purpose of preventing and suppressing any armed or riotous assemblage of persons, resisting the custom-house officers in the exercise of their duties, or in any manner opposing the execution of the laws laying an embargo, or otherwise violating, or assisting and abetting violations of the same.

Sec. 12. And be it further enacted, That all penalties and forfeitures incurred by force of this act, unless herein before otherwise directed, and all penalties and for-

Gentlemen: Pursuant to the authority contained in concurrent resolutions of the legislature, a contract has been made with the Christian party of Oneida indians, for the purchase of the lands mentioned in said resolutions; it therefore has become necessary that provision should be made by law for the payment of the monies contracted to be paid, which will require an appropriation of about two thousand dollars for immediate payments.

I beg leave also to mention to the legislature, that some of the pagan party of Oneida indians are now at the seat of government, for the purpose of selling to the State a part of their lands, upon terms which appear to be equitable and highly

feitures incurred by force of the act, intituled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," or by virtue of the several acts supplementary thereto, may be prosecuted, sued for, and recovered by action of debt, or by indictment or information, any law, usage or custom to the contrary notwithstanding; and if recovered in consequence of any seizure made by the commander of any public armed vessel of the United States, shall be distributed according to the rules prescribed by the act, intituled "An act for the government of the navy of the United States," and if otherwise, shall be distributed, and accounted for in the manner prescribed by the act, intituled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, one thousand seven hundred and ninety-nine, and may be mitigated or remitted in the manner prescribed by the act, intituled "An act to provide for mitigating or remitting forfeitures, penalties, and disabilities accruing in certain cases therein mentioned," passed the third day of March, one thousand seven hundred and ninety-seven, and made perpetual by an act passed the eleventh day of February, one thousand eight hundred; and any officer or other person entitled to a part or share of any of the fines, penalties or forfeitures aforesaid, may, if necessary, be a witness on the trial therefor, but in such case he shall not receive any part or share of the said fine, penalty or forfeiture, but the part or share to which he would otherwise be entitled shall revert to the United States.

Sec. 13. And be it further enacted, That the President of the United States be, and he hereby is authorized to hire, arm and employ thirty vessels, not exceeding in tonnage one hundred and thirty tons each, belonging to citizens of the United States, and so many seamen as shall be necessary to man the same, for immediate service, in enforcing the laws of the United States on the sea coast thereof, and to dismiss the same from service, whenever he shall deem the same expedient: Provided however, that such hiring, arming and employment shall not be for a term exceeding one year. And the said ships or vessels, when so hired and armed, shall be employed under the direction of the Secretary of the Treasury.

Sec. 14. And be it further enacted, That the powers given to the President of the United States by the seventh section of the act of March the twelfth, one thousand eight hundred and eight, to grant permission to citizens having property of value in places without the jurisdiction of the United States, to despatch vessels for the same, shall henceforth cease.

Sec. 15. And be it further enacted, That this act shall be in force from and after the passing thereof, during the continuance of the act, intituled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," and no longer. Approved, January 9, 1809.

advantageous to the state. The advice and direction of the Legislature, in relation to a purchase of the last mentioned Indians, is respectfully requested.

Daniel D. Tompkins.

Albany 15th February 1809.

Gentlemen: Pursuant to concurrent resolutions of the legislature of the 15th Instant, a contract has been made with the Pagan party of Oneida Indians, for the purchase of their lands east of Oneida Creek, supposed to contain twelve or thirteen thousand acres of land. The payments to be made immediately, on this contract, will not exceed two thousand dollars; for the performance of which, an appropriation by Law is necessary.

Daniel D. Tompkins.

Albany, February 20th, 1809.

MILITARY STORES AND HOW DISTRIBUTED IN THE EARLY WINTER OF 1809.

Gentlemen: I have the honor of laying before you the annual report of the Commissary of Military stores. In the Journals of the Assembly, I observe a separate communication of the commissary, relative to rifles, and budge barrels, has been referred to a committee. I beg leave to mention, that the latter, being an equipment of ordnance and field artillery, is already provided for by the Act authorising the purchase of an additional quantity of ordnance, arms and ammunition for the use of this State, and for other purposes, passed April 8th, 1808. I concur in recommending the purchase of from five hundred to one thousand riffles. A provision for that purchase will not

require any new appropriation, as no part of the sum of sixty-five thousand dollars, granted for Military purposes, by the act above referred to, has yet been drawn or expended.

Daniel D. Tompkins.

Albany, February 15th, 1809.

A correct statement of all and singular the Warlike Stores and Property belonging to the State of New York lying in different parts of the State, from the town of Champlain, on the Chazy river, to Albany, and from the Narrows to Niagara. Reporting the condition of the same.

IRON ORDNANCE.

40 pieces of 32 pounders, in ordnance, New York
 41 Do 24 Do 28 of which are in New York
 12 at Ellis Island
 1 Bedlows "
 Fifty-four of which are completely
 equipped with carriages, shot, shod
 handspikes &c &c.
 6 old pieces of 12 pounders with carriages complete, in arsenal yard, New York.
 5 pieces of 9 do 4 of which are in Arsenal, with 4 old garrison carriages
 1 " at Ticonderoga,
 11 Do 6 do of which are in Arsenal yard, New York,
 2 at Whitehall,
 1 Fort Columbus,
 2 Fort Stanwix, one of which is unfit for service.
 6 pieces of 4 pounders 1 of which is in arsenal yard, New York.
 1 at Utica, in possession of Capt. Bellinger.
 1 at Canandaigua in possession of General Taylor.
 1 at Westmoreland.
 1 at Manlius square, in possession of Epm. Barrell, and
 1 Oswego Falls.

BRASS ORDNANCE completely Equipped.

6 pieces of 12 pounders, 4 of which are in the Arsenal, New York.
 2 at the Narrows, delivered General Morton.
 do 9 in Arsenal, New York.
 37 pieces, 6 pounders, 12 of which are in Arsenal, New York.
 8 delivered to General Morton.
 4 Dutchess in possession of S. Hawkins and Captains Dibble &
 Woolly
 2 Westchester, delivered Capt. D. Miller,
 1 Oneida Col. Kirkland,
 1 Montgomery Capt. John Veeder,
 3 Rensselaer " Lansing,
 1 Washington Col. S. Thorn,
 2 Columbia Capt. Wigton,
 2 To Captains Brown and Whitney in Col. S. Thorn's Regiment,
 1 Orange Capt. W. Ross,
 41 pieces of 4 pounders 1 Oneida Col. I. Kirkland,
 1 Montgomery Capt. John Veeder,
 2 Washington Col. Stepn. Thorn,

pieces of 4 pounders	1	Judge Buell,
	1 Seneca	Capt. Jas. McCall,
	2 Granville	Col. Step. Thorn,
	1 Clinton	Capt. Green,
	2 Canandaigua,	
41 pieces of 3 pounders,	2 of which are in Arsenal, New York,	
	2 Dutchess, delivered	Major Bogert,
	5 Montgomery,	Col. Kennedy Major Fox & Capt. Elsen-
		lord,
	1 Rensselaer,	Capt. H. Potter,
	28 Washington,	Capt. Sol. Day,
	2 Columbia,	Capt. Jenkins,
	1 "	Capt. Woodward of Col. Thorn's Regt.
	1 Granville,	Col. Step. Thorn,
	4 Orange,	Genl. James Wilkin, Capt. W. Ross, and
		Capt. I. Kerr,
	1	Capt. I. Lincoln,
	1 Rome	
	1 Schenectady,	Capt. H. Teller,
	2 Saratoga	Capt. Pitcher,
	1 Onondaga	Capt. S. Sherwood,
	1 Ontario	Capt. W. Greeves,
	2 Greene	Capt. S. Van Wyck,
	2 Kings,	Major Boerum,
	2 Suffolk,	Capt. Jermain,
	2 Otsego,	Capt. Mason,
	5 Herkimer,	Genl. Widrig, &c.
2 pieces of 2 pounders,	1 State Prison,	

1 Orange, Captain John Kerr,

1 " 8 Inch Mortar, Narrows, General Jacob Morton,

BRASS ORDNANCE, not mounted.

8 pieces,	-9 pounders,	arsenal yard, New York.
12 "	6	do
3 "	3	do
2 "	1	do
2 "	10 inch mortars,	not bedded,

A quantity of shells for 8 and 10 inch in ordnance yard, New York, 3 boxes tubes for 8 and 10 inch, marked from 15 to 30 seconds.

4021 round shot for 32 pounders

4065	do	24	do
1116	do	18	do
92	do	12	do

In ordnance yard and arsenal, New York.

Round shot, cast by order of His Excellency the Commander in Chief, viz.

In Arsenal, New York.

By Robert McQueen, New York

	Tons	Cwt.	qrs.	lb.
12 pounders	6	1		16
9 "	5	5	2	5
6 "	4	18	1	6
Cannister & Grape		15	3	2
Total	16	19	3	1

In Arsenal, Albany,

By Townsend, Albany,

	Tons	Cwt.	qrs.	lbs.
6 pounders	7	2	3	14
4 "	5	1	1	0
3 "	6		2	25
Total	18	4	3	11

In Arsenal, New York.

A quantity flannel blank cartridges for 32, 24, 18 & 12 pounds damaged.

A large quantity of waddings for the above calibre,

A quantity blank tubes, and 70 powder horns,

- 1 Ammunition waggon, out of repair,
- 15 Tumbrils in different parts of the state,
- 1 Devil carriage complete, 2 travelling forges complete,
- 33 Coils slow match different sizes,
- 5 Wheel barrows out of repair,
- 2 proof carriages and 1 set cannon slings,
- 26 new shaft harness and a quantity old leading harness,
- 2 Coils rigging for drag rope and 1 powder cart.

SMALL ARMS.

Arsenal New York English 880		
Do Do Hamburg 324 not equipped		
Completely equipped with ammunition &c. as the law directs.		
State prison	English	10
Arsenal Albany		1811
Union College Schenectady		60
Utica, for the town of Champion Jefferson Cy.		500
Rome, County of Oneida		700
Onondaga, County of Onondaga		500
Canandaigua, County Ontario in arsenal under the care of Stephen Bates		1011
Batavia, County of Genesee		500
Counties, Clinton & Essex via Elizabethtown &c.		630
	Total	6926

3 boxes scabbards containing 2300

2092 worms for small arms

1905 prickers for Do.

225,500 rounds fix'd ammunition, in stores New York, and Albany, of 16, 18 and 20 to the pound.

1 Tarpaulin for traying Powder

Shod Powder, shovel and scoop

16 Empty ammunition boxes

3200 Musket balls in Magazine New York;

In Albany Arsenal: 1 Gin block and fall and 2 setts spare tackles 74 boxes ammunition for muskets 16 to the pound 8 boxes buck shot 890 sets accoutrements for small arms 1 gin block and fall 58,500 pounds fixed ammunition for small arms, delivered for the eastern and western districts, as the law directed, 2 boxes fixed ammunition, for Quarter Master Sexias, as per Order of General Morton, contg. 1000 rounds each.

286 round shot, of different sizes, for practg. at diff. times.

1 Wad hook for 24 pounder

1 ladle for Do

1 sponge Do

1 powder horn with belt

1 lint stock

2 shod handspikes

Removed from Bedlow's Island to fort Columbus

1 slide carriage and roller,

1 long 6 pounder,

1 Truck carriage for do,

1 was hook for do,

1 ladle for do,

1 Rammer for do,

1 powder horn with belt

Removed from Ellis's Island to Fort Columbus

6 Muskets deficient in store in State Street

1176 Rounds 12 pound shot

289 " 9 Do

½ boxes strapt ammunition

3 Do fixed for Muskets, contg 1000 ea

4 bbls Powder of 100lb each

36 Quarter Casks Do

Property unaccounted for by the Commissary of Military Stores in 1800/,

64 Quarter casks Brandy wine powder
1 small piece brass artillery

Unaccounted for by my predecessor.

The magazine is completed, with the exception of copper locks and hinges for the inner doors, and the same is inclosed by a wall of masonry ten feet in height. A dwelling house for the keeper, a well of excellent water, and a convenient stone and gravel road from the public street to the magazine, are also finished.

A contract for two thousand stand of small arms has been made with Mr. Eli Whitney of New Haven, agreeably to the 17 section of the Act, entitled "An Act for the payment of certain officers of government, and for other purposes" passed April 11th 1807, the construction of which are to differ from those heretofore fabricated in the United States in the following particulars.

- 1st. From $\frac{1}{4}$ to $\frac{1}{2}$ lbs. added to the weight and strength of the barrel, from the centre to the breech
- 2nd. An Additional strength to the limbs of the lock.
- 3rd. An Additional strength to the breech pin, by adding from 2 to 4 threads.
- 4th. An Additional strength to the grip of the stock.
- 5th. The ramrods to be entirely of steel, also the bayonets with sockets completely collared.
- 6th. The stocks to be of seasoned black walnut, and the whole to be completed in a workman-like manner, according to the decision of a competent person, to be appointed for that purpose. A Sample of the muskets contracted for, will, if possible, be furnished for the inspection and examination of the members of the legislature, before the conclusion of the present session.

The number of brass pieces cast at the Columbia foundry is 68, consisting of twelves, nines, sixes and threes, and two ten inch mortars and one prouvette. One piece is still at Georgetown, to be recast. All the brass ordnance and artillery mentioned in the above annual report to be equipped, are now mounting and equipping with the utmost expedition, and will be completed in the course of the winter, together with a gin, on a new construction, for moving heavy ordnance.

John McLean,
Commissary of military stores.

New York 20th Feby. 1809.

MEMORANDA OF THE GOVERNOR TOGETHER WITH SPECIFICATIONS FOR AN ARSENAL.

Albany, February 18, 1809.—Sent an appointment to Col. Paul Stickney for the district of Sackets Harbour similar to the next preceding letter but one directed to Genl. Mooers of Plattsburgh.

Albany, March 7, 1809.—Made out and sent a copy of the above mentioned letter to General Mooers, *Mutatis Mutandis*, for Isaac Hall of Onondaga for that district.

NOTE—The Collectors of both the above districts were personally notified of the above appointments and were themselves the bearers of the letters conveying notice thereof.

March 8, 1809.—Made out and sent a Copy of the above mentioned letter to Major Timothy Hopkins of Buffaloe for the dis-

trict of which Erastus Granger is Collector—sent at the same time notice thereof to the Collector.

March.

Memorandum concerning a deposit of Arms to be erected at Elizabethtown, Essex County.

- 1st Title to a Lot of Ground at least 66 feet by 100 fronting on some road or Street must be obtained.
- 2nd The building must not be less than 20 feet by 30 with the gable end towards the road or Street and to be of stone, brick or Wood according as a Majority of Gentlemen hereafter named may deem most suitable ornamental & economical.
- 3rd If built of stone they must be of the first quality of building stone smoothly faced and handsomely laid. If choice stone cannot be procured the building ought rather to be of brick or timber.
- 4th The foundation will consist of an extensive mason wall of ample thickness to support the superstructure and an interior wall running lengthwise through the center. The first at least two feet and the second at least one foot in the ground and both raised to an exact level at least eighteen inches above the surface of the ground. The foundation Walls to be of the best building stone. A plate on the interior wall will support three pillars, the first 12 feet, the second 18 and the third 24 feet from the front door. The front door must be a substantial double door with a small door in it both substantial and well made, with strong hinges and locks. The width of the double door must be sufficient freely to admit Gun carriages.
- 5th The sleepers of the lower floor must be of chestnut or pine seasoned 12 inches by 6 and not laid more than 18 inches apart. The pillars in the center plate must be substantial. The beams of the second floor at least 9 inches by 4 and not more than 20 inches apart are to be framed into or rest upon a substantial plate which will rest upon the pillars and end walls. The lower floor to be of seasoned plank 3 inches thick. There must be one window opposite the double door and one in each side with iron gates worked into the wall at top and bottom. Joists must be worked into the wall projecting 2 inches within it, to which a ceiling of planed thin boards may be attached. The first story must not be less than 8 feet in the clear. The second floor must be made of good seasoned plank or thick boards. The side walls must be carried up $4\frac{1}{2}$ or 5 feet above the second floor, and the cross or collar beams must be so placed as to leave at least seven feet between them and the floor. A door in the second story over the double door with a fixture above it for holsting. A window in the opposite end and if practicable a small semicircular window above the door and the opposite window. The dimensions of 30 by 20 feet will be in the clear between the walls.
- 6th If built of brick the exterior must be well and neatly painted and pencilled and the roof painted a slate color. Some of the beams of the second floor and some of the rafters ought to be so anchored with iron as to prevent the side walls from spreading apart. There must be a staircase and stairs between the first and second floor. The lot ought also to be enclosed with a substantial board fence about six feet high with a large gate in front. The building should be erected in the center of the lot and its walls parallel with the sides of the lot. The whole to be of the very best materials and workmanship.

If Isaac Kellog, Benjamin and Simeon Frisbie, William Kirby and E. Barns, or a majority of them, will ascertain whether suitable ground can be obtained and will name one of themselves or other person who is willing to superintend the building, keep vouchers and account for the money advanced, I will

immediately forward the necessary sum and direct the immediate commencement of the building. I will thank them to inform me of the probable cost of each building, give me their opinion of as to the materials they may think best for the building, as to the piece of ground, and as to any other matter touching the size and model of the building or otherwise concerning it.

Albany, July 31, 1809.

FURTHER EXPENSE OF ORDNANCE AND AMMUNITION.

Gentlemen: Herewith you will receive my account of monies drawn and expended, pursuant to the Act, entitled "An Act for procuring ordnance and ammunition" passed April 7th, 1806, and also the Account of the Commissary of Military stores, under the two acts relating to the scite for, and to the building of a powder magazine in the city of New York.

It will be seen by the annual reports of the Comptroller and treasurer, that the sum of \$33,143.80 is charged as having been drawn for arms and ammunition generally. This sum consists of the balance of \$15.58 due me, on the account rendered 15th February 1808, (which balance was drawn during the year embraced by the annual reports,) of \$25,628.22 drawn under the above mentioned Act, of April 7th 1806, and accounted for in the audited Account, herewith transmitted, and of seven thousand five hundred dollars, drawn under the seventeenth section of the supply bill of 1807. The principal part of the last mentioned sum has been advanced upon the contract for small arms, mentioned in the annual report of the commissary of Military stores, and will be accounted for as soon as the arms are delivered by the contractor. I deem it my duty to state, thus specifically the several appropriations under which the aggregate amount mentioned in the annual reports of the Comptroller and treasurer, has been drawn, as well for the purpose of rendering my distinct Account, therefore, more intelligible, as to shew to the Legislature, that no part of the sum of \$65,000 Dollars, granted for military purposes, by the Act of the 8th April 1808, has as yet been withdrawn from the Treasury.

It will be seen by the magazine account, which accompanies this message, that the sum appropriated for the building has proved insufficient. Perhaps no new appropriation will be necessary to meet the payment of the balance, provided the legislature will authorize the application of the surplus proceeds of the two gores of land in New York, to be applied to that object. Sanguine hopes are entertained, that the proceeds of these gores will be sufficient, not only to meet the expenses contemplated by the Act directing the sale, but also to discharge the balance of the magazine account.

Most of the sums drawn under the Act, for the defence of the frontiers, was included in the Account rendered at the November meeting of the Legislature. The accounts for the residue of that sum, and also of the expenditure of the amount drawn for fortifications and incidental expenses, will be exhibited to the legislature before the close of their present session.

Albany, 28 February 1809.

Daniel D. Tompkins.

MARYLAND VOTES AGAINST THE PROPOSED JUDICIAL CONSTITUTIONAL AMENDMENT.

Gentlemen: On the 7th day of March last I had the honor of transmitting to the Legislature of this State certain resolutions

of the General Assembly of Virginia, which communication was not acted upon during that session. The proceedings of the Senate and House of Delegates of Maryland, upon these resolutions, are now submitted to you.

Daniel D. Tompkins.

Albany, 1st March, 1809.

COUNCIL CHAMBER,

Annapolis, December 27th, 1808.

Sir: Enclosed you will receive a copy of a resolution of the General Assembly of Maryland, which I am requested to transmit to you. I have the honor to be, With great consideration,

Your most obedient servt.

Robert Wright

By the House of Delegates,

December 9th, 1808.

Resolved, That the alteration proposed to the Constitution of the United States, by a resolution of the general Assembly of the State of Virginia, on the 9th day of February, 1808, so as "to render the Senators in the Congress of the United States removable from office by the vote of a majority of the whole number of the members of the respective State legislatures, by which the said Senators have been or may be appointed," and the same is hereby disapproved by the legislature of this state, and that the Senators and representatives in Congress from this State a copy of this resolution, and to the Executive of each state a copy of the said resolution, that the same may be submitted to the consideration of the legislatures of the several states, with a request to oppose the said alteration.

By order J. Brewer, Clk. By the Senate, December 22nd, 1808.

Read and assented to By Order T Rogers, Clk.

True Copy Test. John Brewer Clk. Ho. Del.

MASSACHUSETTS DISAPPROVES OF THE VIRGINIA AMENDMENT TO THE
CONSTITUTION.

Gentlemen: The Enclosed resolutions of the Legislature of Massachusetts, disapproving the amendment to the constitution of the United States, proposed by the State of Virginia, are submitted to your consideration.

Daniel D. Tompkins.

Albany, 8th March, 1809.

COMMONWEALTH OF MASSACHUSETTS. Council Chamber. Boston, February 22nd, 1809.

Sir: Agreeable to the request of the legislature of this Commonwealth, I transmit to you their Resolution, disapproving the amendment to the constitution of the United States, proposed by the State of Virginia on the 13th of January 1808.

Levi Lincoln.

His Excellency The Governor of New York.

COMMONWEALTH OF MASSACHUSETTS. In Senate, February 18th 1809.

Resolved, That the alteration proposed by the Constitution of the United States, by a resolution of the General Assembly of the State of Virginia, on the 13th day of January in the year of our Lord, one thousand eight hundred and eight, so as "that the Senators in the Congress of the United States may be removed from office by the vote of a majority of the whole number of the members of the respective Legislatures, by which the said Senators have been or may be appointed," be, and the same is hereby disapproved by the legislature of this Commonwealth: and that the Senators from this Commonwealth, in the Congress of the United States, be instructed, and the representatives be requested, to oppose the said alteration.

RESOLVED, that His Honor, the Lieutenant Governor be requested to transmit a copy of the foregoing resolution to each of the Senators and Representatives in Congress from this Commonwealth, and to the Executive of each State.

Sent down for Concurrence, H. G. Otis, President

In the House of Representatives, February 20th, 1809. Read and Concurred Timothy Bigelow, Speaker.

Secretary's Office, February 20th, 1809 True Copy, Attest, Wm. Tudor, Secretary of the Commonwealth.

THE ONEIDA INDIANS BY TREATY PART WITH A PORTION OF THEIR LANDS.

Gentlemen: Pursuant to concurrent resolutions of the Legislature, contracts have been made with the Christian and Pagan Parties of the Oneida respectively, for the purchase of part of their lands, copies of which contracts are now submitted to you.

It is necessary that the Legislature should make provision by law for fulfilling by the stipulations and engagements on the part of the State.

Daniel D. Tompkins.

Albany, March 10, 1809.

At a treaty held in the City of Albany, on the 16th day of February, in the year of our Lord one thousand eight hundred and nine, by his excellency Daniel D. Tompkins, Governor of the State of New York, with the deputies of the Christian nation of Indians, fully empowered for that purpose, it is agreed and covenanted as follows to wit:

The said Indians sell and forever quit claim unto the people of the said state all their lands still belonging to the said Christian party of the Oneida nation of Indians, on

both sides of the Fish Creek, which empties itself into the Wood Creek, near the head of the Oneida lake, containing seven thousand five hundred acres, be the same more or less, reserving therefrom three hundred acres, to be laid out by the direction of the Commissioners of the land office, in such manner as shall be least injurious to the residue of the said tract for the benefit of Abraham Van Eps Esqr., being in full for all his demands against the said christian party, and of every individual people of the State of New York, and the said deputies, on the part of the said Christian party of the Oneida nation of Indians, have hereunto set their hands and seals the day and year above mentioned.

Daniel D. Tompkins	[L. S.]
his	
Jonathan X Dinney	[L. S.]
mark	
his	
John X Reed	[L. S.]
mark	
his	
Jsium X Shunoutor	[L. S.]
mark	

Signed, Sealed and delivered in the presence of
Simeon DeWitt, John Taylor, Ezra L'Hommedieu, Angel De Ferrier.

At a treaty, held at the City of Albany, on the twenty first day of February, in the Year of our Lord One thousand eight hundred and nine, by his Excellency, Daniel D. Tompkins, Governor of the State of New York, with the Chiefs or Sachems of the Pagan party of the Oneida nation of Indians, it is agreed and covenanted as follows, to wit:

The said Indians sell and for every quit claim unto the people of the said State all their right and title in and to the following lands, being part of the tract called the Oneida reservation, which belongs to the said Pagan party, by virtue of an agreement or deed of partition of the said nation, recorded in the office of the Secretary of State, that is to say, all the lands belonging to the said Pagan party as aforesaid east of the Oneida creek, and extending from the Oneida lake to Mud-creek, which empties into the said Oneida Creek, southward of the Seneca turnpike road, reserving out of the same for Logan Cook, son of Louis Cook, and for his posterity, unalienable, one hundred acres, as nearly in a square as may be, on the east side of the said creek, and to comprehend the improvements made by the said Colonel Louis: reserving also for Dolly, widow of John Denny, deceased, for her and her posterity, unalienable, two hundred acres, to be laid out as nearly in a square as may be, on the south side of the said Skanaulo creek opposite to the last described reserve: reserving, also, for Cornelius Dockstadder, William Grant, and Zaccheus P. Gillet, as tenants in common in fee simple, all that triangular piece of land bounded on the South by lots number seventeen, Eighteen, nineteen and Twenty of the lands along the Seneca turnpike road, ceded to the people of this State in the year One thousand Seven hundred and ninety eight, on the West on the northern continuation of the West bounds of said lot number seventeen, and on the north east by the lands formerly ceded by the said Oneida Indians to the people of this State. In consideration of which the said Governor now pays to the said Chiefs or Sachems, for the use of the said Pagan party, One Thousand Dollars, the receipt whereof is hereby acknowledged by the said chiefs or sachems. And further, it is covenanted and agreed, on the part of the said people, that the lands hereinbefore described shall be surveyed, and the number of acres therein contained (deducting therefrom the several tracts of land hereinbefore mentioned and reserved) shall be certified to the said Indians by the surveyor-general of this State, together with the sum to which the same will amount, at the rate of fifty-six cents per acre; and that the said people shall annually forever hereafter pay unto the said Pagan party such annuity as shall be equal to the interest of six per cent, calculated on the residue of such sum, after deducting therefrom the sum of One thousand dollars now paid as aforesaid, which annuity shall be paid at such times and places as are or shall be agreed or stipulated for the payment of the other annuities due from the said people to the said Oneida nation of Indians.

In testimony whereof, the said Governor on the part of the people of the State of New York, and the said Chiefs or Sachems, on the part of the said Pagan party of the Oneida nation, have hereunto set their hands and seals, the day and year above mentioned.

	Daniel D. Tompkins	[L. S.]
	his	
	Quetea X Owaghrougha	[L. S.]
	mark	
	his	
	Henry X Platcop	[L. S.]
	mark	
	his	
	John X Togehtetoute	[L. S.]
	mark	
	his	
	Captain X Peter	[L. S.]
	mark	
	and Thirteen other Chiefs and Warriors	

Signed, sealed and
delivered in presence of
Ezra L'Hommedieu,
John Taylor,
Isaac Dennison,
Zaccheus P. Gillet,
William Grant,
Medad Candi.

FOR THE PUBLIC DEFENSE.

PROGRESS OF THE WORKS AT THE NARROWS WITH THE EXPENSE OF CONSTRUCTION.

Gentlemen: By the Act to contribute to the defence of this State, and for other purposes, passed April 6th, 1808, it is provided that the person administering the Government of this State, shall transmit to the legislature at their next session, an account of the expenditure of the several sums of money thereby appropriated for public objects. No part of the sum of Twenty thousand dollars, appropriated by the second section of the aforesaid Act, has been drawn or applied. The sum of Twelve thousand five hundred Dollars, drawn from the treasury pursuant to the first Section of the said Act, has been advanced to the Commissioners of fortifications, whose report, together with a summary account of the expenditure of \$9504.73 thereof, previous to the 20th instant, together with a specification of the objects to which the same has been applied, you will herewith receive.

Accurate plans of the ground belonging to the State, and of the works referred to in the report of the Committee, are also

submitted to the examination of the Legislature, with a request that after they have been inspected and satisfactorily examined, they may be returned to me.

Daniel D. Tompkins.

Albany, March 22, 1809.

New York, February 16, 1809.

We have the honor of transmitting herewith to your Excellency an account of the expenditures under the commission for erecting fortifications at the Narrows, on Staten Island, with which your Excellency has been pleased to honor us.

This Account, as your Excellency will perceive, is up to the 10th of the present month.

In executing the trust committed to us, it has given us great satisfaction to find that the humane intentions of the legislature, in the Act appropriating a sum to be expended for the defence of this harbour have been answered; and without any unnecessary expenditure of the public money.

From two hundred to two hundred and fifty persons "who are deprived of the ordinary means of subsistence, by the critical state of our national affairs" have been employed during the winter, and to considerable advantage; for the labor to be performed was but little retarded by any inclemency of the season.

In perusing the items and expenditures, your Excellency will perceive that a large proportion has been for buildings, &c. which would be at all times necessary when military works were to be constructed at that place; these consist of a barrack, for the accommodation of the laborers, an office for the Clerk and superintendents, a smith's shop and wharf.

As we presumed it would be acceptable to your Excellency to be informed of the progress which has been made in the construction of the Military works, we have procured from Mr.

Cuttush, a report upon that subject, which we have the honor to subjoin hereto, under date of the 7th instant.

“The excavation of the hill for the Site of the southern battery (denominated battery “A”) is nearly half compleated, together with two hundred and fifty eight feet of its epaulement; and should the ensuing season prove favorable; will in all probability in the course of two months be ready to mount thirty five pieces of cannon. The situation of which being nearly in a direct line of approach, and also having an elevation of fifty feet above low water mark, renders it of primary importance in the first repulse.

“In addition to the above work, a similar battery (denominated battery “B”) having a command of forty one feet over the former; of which the excavation for its parade, and an epaulement of One hundred and seventy three feet is now already compleated, and will as soon as the weather permits, admit of its platforms being laid for twelve pieces of cannon. The position of this battery being such, as to have a command of the former one, and consequently prevent any lodgement being made therein, its protective, together with its defensive force, is eminently calculated to make it of much importance.

“The execution of the principal work (denominated fort Tompkins) has progressed with considerable alacrity since its commencement; the western rampart of the former work, which is the Site of the present, is erased, and we have by this time been enabled nearly to complete a part of the ditch, extending from the flanked angle of the bastion and salient angle of the Counterscarp, of the South West bastion to the tower, and re-entering and salient angles about the tower, with a corresponding part of the glacis: The excavation for the tower, will be

ready for laying the foundation as soon as the season will admit of the materials being procured.

“The well, situated between the South western rampart and South wing of the western barrack, is also much advanced, having attained a depth of sixty feet and upwards.

“The fort from its superior force and commanding position over all the subordinate ones, and the surrounding adjacent country, has a pre-eminence for its protection and the dependence on it for a resort in case of surprise, or secret sorties being made against them; as well as from its own force in an extensive fire on the enemy in any direction.

“The marine battery, (denominated Fort Richards) is in such a state of forwardness as to require the materials at present for laying the foundation and carrying up the wall; the foundation trench being dug and prepared with the necessary timbers, and also its parade ground elevated one foot above the ordinary level of the sand; which work when completed (having the line of its cordon four hundred and thirty feet in length) will be capable of mounting Twenty five pieces of heavy cannon. The situation of this battery being on the level with the water, its ricochet fire gives it a decided advantage over all others, as arising from the certainty of its execution.

“Two roads for the conveyance of materials, and a communication between the respective works, leading from near Fort Richmond to the summit of the hill, have been completed; one of which, of fifty six rods in length, terminating at the scite of battery “A,” and the other of forty two rods, ending above Fort Tompkins. A well also has been sunk at the foot of the hill for the accommodation of the laborers.

As the season will soon permit us to proceed with the mason work, we shall of course, be immediately under the necessity of procuring materials, which will require large advances: We would therefore, respectfully request your Excellency to place in funds for this purpose.

We have the honor to be, with the highest respect & considn. Your Excellency's most obed servt.

DeWitt Clinton,

James Fairlie,

Jacob Morton.

To His Excellency Daniel D. Tompkins, Governor of the State of New York.

A summary account of the disbursements made by the Commissioners of Fortifications at the Narrows, agreeably to an Act of the honorable the Legislature of the State of New York.

Passed 6th April, 1808.

For boards timber, brick lime &c.	Utensils, shovels blacksmith tools, wheelbarrows &c.	Laborers wages	Rations, provisions, vegetables, wood, coals, cabooses, Stoves, &c.	Dock expenses at the Narrows.
\$1230.91	\$440.92	\$2931.3	\$2725.5	\$1000

Digging a well.	Stationary, advertisements, &c.	Officers employed, head carpenters, superintendents, &c.	Expenses &c of the Commissioners.
\$35	\$117.12	\$975.70	\$49

RECAPITULATION.

Boards &c.	\$1230.91	Stationary &c.	\$117.12
Utensils	440.92	Officers employed	975.70
Laborers wages	2931.3	Commissioners expen.	49.
Rations &c.	2725.5		
Dock expenses	1000.	Total	\$9504.73
Well	35.		

Errors Excepted.

In behalf of the Commissioners of Fortifications.

DeWitt Clinton, Chairman.

March 21st, 1809.

THE GOVERNOR TO DR. MAC NEVEN—REGARDING UNIFORMS.

New York, July 27, 1809.

Dear Sir: My absence from Town prevented the receipt of your letter of Tuesday until this morning. The uniform for the Rifle Corps which I have concluded to adopt generally, is Green frocks with Yellow fringe. Green pantaloons and black gaters, round hats with sash and feather, of any colour which may suit the taste of the company. There would be no material objection to helmets or Caps, in the City instead of Hats.

I have some time since received an application to organize a Rifle company in this City in Col. Bogardus' Regiment. That company wish White frocks with blue fringe, and white under clothes, hats &c. If the Officers of the Two proposed companies can agree upon a uniform, different from the general uniform I shall not be unwilling to vary from the General rule to oblige them. The officers of the other proposed Company are Nathaniel Fisk, Captain, Theo: Adriance, Lieutenant and Stephen Wood, Ensign.

Should the company you propose to have organized prefer the uniform which I have prescribed, to that which might be agreed upon, the officers of the two proposed companies they can be organized without delay. As I shall leave town on Saturday afternoon and shall be absent about three weeks, it would be well to give me an answer to the determination by that time.

Dr. Wm. Jas. MacNeven.

THE GOVERNOR FINDS HIMSELF INVOLVED IN A COMPLICATED SITUATION TOUCHING RED TAPE AND REMITTANCES.

New York, Sept'r 9, 1809.

Dear Sir: I have this moment received your letter of the 5th Instant covering Mr. Massy's letter and an account of Col. Stickney. If you have made any remittance to defray the expense of the Detachment mentioned in those papers it has not been received.

I presume, however, you refer to remittances, made before that Detachment was called out to reimburse the pay and expenses advanced for Detachments in *other* Districts Called into service by my orders: vizt. 2500 Dollars for the Oswego Detachment and 1800 Dollars for the Champlain Detachment: both of which were in service and paid, previously to the arrival of the regular troops in 1808. The sums advanced by me for these two Detachments exceed the remittances by several hundred Dollars: as you will discover by the accounts and vouchers which will be transmitted to you on my return to Albany. It is extremely difficult to obtain such vouchers as are exacted at the War Department on account of the inconvenience of access to the individual soldiers in a thinly settled District where the roads are occasionally impassable.

But the Detachment referred to by Mr. Massy was in the District of *Sackets Harbour* last March, and was ordered into service by him under the Law usually called the Enforcing Act. Col. Stickney was the military officer designated for that District, to whom the Collector was to apply when military aid was deemed requisite; and the directions of the Secretary of War transmitted to Col. Stickney were that Muster Rolls, pay Rolls &c of any Detachment demanded by the Collector should be trans-

mitted to that Department. It was, therefore, presumed that I was to have nothing to do with the accounts for the pay and expenses of such Detachments. I hope the preceeding explanation and the inspection of my receipts for the remittances, and the instructions from the War Department, will satisfy you that the information you have given to Mr. Massy of my having been furnished with funds to pay his Detachment, arose from a mistake and that you will do me the Justice to apprise him of the mistake or authorize me to do it.

I will chearfully advance the pay for this Detachment also, provided the Department of War will furnish me with the forms of vouchers required, so that when my account therefor is transmitted there may be no obstacle to its being audited & paid.

It is true, as stated by Mr. Massy, that certain papers signed by Capt'n A. Earl were enclosed to me early in the summer with a request that I would advance the pay &c; but the papers enclosed were neither muster Rolls, pay Rolls &c nor any thing like them and had I upon those papers paid the amount, my account therefor would of course have been rejected at the War office. Mr. Massy was so informed, and a promise on my part was made to send him if possible correct forms. Capt'n Wm. Yates, formerly a Capt'n in United States service, was accordingly applied to by me to repair to Watertown to provide for the erection of a deposit for arms and military stores, and as Mr. Massy resides at that place, he was also to make out the necessary papers for Mr. Massy or Col. Stickney and pay the amount. But after my departure from the seat of Government, he was indisposed and unable to go, and, therefore, it is that I did not perform my promise in that particular to Mr. Massy.

Sickness of relatives & other private and public considerations have prevented me since from attending to it.

P. S. The papers enclosed in your letter I have retained until your orders for their disposition are received.

R. Brent, Esqr Pay Master &c

GOVERNOR TOMPKINS MAKES AN EXPLANATION TO COLONEL VAN
CORTLANDT REGARDING AN APPOINTMENT.

New York, October 6, 1809.

Dear Sir: Genl. Van Cortlandt has kindly promised to explain to you the reason for my delaying an answer to yours of the 13th ultimo. It is a subject of regret with me that you should feel hurt at the occurrence alluded to in your letter inasmuch as there was not the remotest intention on my part to do any act which would be disagreeable to you. I will detail to you minutely the whole circumstances and will then submit to your candour the propriety of the proceeding. In the spring or early in the summer the President of the Company applied to me to appoint Inspectors of ten miles through the Highlands, and mentioned three persons who have since inspected the road. Not recollecting that I had already made an appointment, the Commission was made out & sealed, but before delivery I recollected the former appointment and refused to deliver the Commission. Mr. Howland then assigned sundry reasons which I do not now recollect, to convince me of the propriety of complying with the Company's request, but I declined interfering. On the eighth of August he addressed a letter to me requesting in behalf of the Corporation the omission of your name & the insertion of another, which request I informed him I could not grant, consistently with my respect and esteem for you. After my return

from the Westward he made an other written official communication to me, assigning the grounds upon which the Company considered my persistance in your appointment as unreasonable amongst which were that you were involved in controversies or disputes with the Company about that part of the road to be inspected, & with some of the Directors. At a subsequent interview, I repeated my unwillingness to make the alteration for the reason I had before assigned him. He then mentioned that he was persuated it would, under circumstances be disagreeable to you to serve and enquired whether I would make the alteration if you requested it, or assented to it. My answer was that I would. Upon his return from the Country he called on me again for the appointment; and assigned some reason for not having seen or consulted you personally but said that he had seen and consulted the General who informed him that *you did not choose to serve*. I was under the impression that Mr. Howland and yourself might not be upon familiar terms and that as the Genl. was your Brother and a Director, Mr. Howland had consulted you through him, and to remove any remaining delicacy upon the subject, he added that he was convinced that so far from the insertion of another name instead of yours giving the smallest offence it was under circumstances your wish. Upon this information and these assurances, and not until then, I issued the new Commission. Lest any of the above facts might have been forgotten by Mr. Howland or disputed I sent for him after the receipt of your letter and repeated them to him and he agreed to their accuracy.

Permit me to say that there is not an individual in the State for whom I have more personal esteem than yourself or whose feelings I would more reluctantly injure and that when I issued

the new Commission, there was no more expectation on my part that it would be disagreeable to you than if your written request to be omitted had been presented to me.

I have returned the General Commission* under a hope that upon this explanation you will feel no reluctance in accepting it.

Col. Pierre Van Cortlandt, Junior.

*Town of Cortlandt, Sepr. 13, 1809.

Sir, The enclosed commission I received some time since but judging from a recent circumstance that it may be your wish to alter it I have thought proper to return it that you may be under no embarrassment on my account.

I am your most Ob. Hum. Serv't.

His Excellency Daniel D. Tompkins Esq.

P. Vn. Cortlandt, Jun'r.

New York, 20 July, 1809.

Sir: My application to your Excellency to appoint another person on the committee to inspect the Highland Turnpike road in the room of Col. Van Cortlandt is grounded on information that Col. Van Cortlandt is very hostile to the Company—This information is from two of our directors of respectable characters acquainted with the fact. On this ground I view Col. Van Cortlandt as a prejudiced person as it respects our road and in order to give more general satisfaction to the Company I solicit your Excellency again to appoint some other gentleman in his room—

With great respect & consideration I have the honor to be Your Excellency's Obt. Servt.

Jos. Howland, Pres.

Highland Turnpike Co.

Excell'y Govr. Tompkins.

THE TRANSFER OF WEST POINT DISCUSSED.

GOVERNOR TOMPKINS SUGGESTS SEVERAL AVAILABLE SITES IN THIS STATE TO SECRETARY OF WAR EUSTIS AND GIVES AN EXHAUSTIVE REPORT ON THE STATE'S MILITARY RESOURCES.

Albany, November 18, 1809.

Sir: When I had the pleasure of meeting you in New York I took the liberty of mentioning that the public ground at the Narrows would be a most eligible site for the Military Academy. Although my opinion is unchanged, and indeed rather fortified by the additional consideration that the Institution is designed for educating officers for the Navy as well as army, yet I shall not now trouble you with an enumeration of the advantages of that position, further than to mention that since you viewed the works I have contracted for the purchase of an additional quantity of ground, making our westerly line a straight one for nearly half a mile and carrying our possession 70 or 80 yards west of the house & barn of Stillwell.

Your impression that the institution would probably be removed from West Point produced an intimation that an Arsenal or Grand Military deposit might be erected there. In consequence of that intimation I have ventured to suggest a few facts which may perhaps be of some importance in a decision upon that subject.

In the event of a War with any Nation having a considerable maritime force, it is the opinion of revolutionary characters and of the inhabitants of this State generally that West Point ought to be so effectually fortified as to present a Barrier to a naval force from further ascending the Hudson.

The objects to be accomplished by making that place impassable are that otherwise should a fleet enter the Harbour of New

York sufficiently formidable to take possession of or pass the fortifications there, the vessels, Specie, Bank deposits, plate and other valuable moveable commodities in New York, might fall into their hands to one hundred times the expense of fortifying West Point. But when an Enemy knew that the ships and vessels lying at New York, might be wafted with the women and children and the valuable moveable commodities of the City up the Hudson to a place of perfect security by the same wind and tide which would bring the Hostile fleet to the city, the principal object for hazarding an approach to the city would be removed, and the expectation of a more vigorous and determined opposition arising from the removal and security of women & children would be excited.

If, therefore, the Idea of making West Point a grand deposit of Military Stores, be coupled with the Idea of its being thoroughly *fortified*, I believe it would meet universal approbation. But should there not exist an intention of making that place impregnable by the repair of the old or the erection of new works, then there may be some hesitation in determining whether it be the most eligible spot on the Hudson for a grand arsenal or Military deposit.

West Point is accessible by water in 8 or 9 hours sail from the Narrows; and of course a deposit might easily be destroyed in the night by fire or otherwise, unless a strong military detachment were stationed there, which the limited number of the United States army and impaired state of the Works may render inconvenient.

A further objection arises from the impracticability of communicating with it by water about three months in the year in consequence of the Ice, which for a considerable portion of

that time is not sufficiently strong in that part of the river to bear the transportation of heavy articles without much hazard and expense. Your acquaintance in that quarter during the War, has undoubtedly made known to you that you cannot conveniently approach it with teams by land from the West or East on account of the mountains which line the shores of the river through the Highlands. How the contingency of access during the Winter season will form an objection to that position you are best able to Judge.

The population is so sparse on that side of the River for six or seven miles around that no aid or assistance can be calculated upon from the inhabitants upon a sudden and unexpected emergency; and the probable increased expense of building, arising from the necessity of deriving all the materials (except stone) from other and perhaps distant places, may also form an item for consideration.

If upon deliberation the preceding circumstances should be deemed worthy of influencing a decision upon the site for a military deposit on the Hudson, it will then be of importance to ascertain whether there be any other places on its shores which possess equal advantages and fewer disadvantages.

Newburgh, above the High lands is equally accessible by Water, is well populated—has turnpike roads diverging from it in several directions, can supply most of the materials for building on the spot and is surrounded by an excellent and well settled country. It is inhabited by mechanics of all descriptions, and I should think the wages would be more reasonable in consequence of the greater cheapness with which provisions may be obtained. There is, however, one objection to this place. The ice is impassable there for a greater part of the winter

season than it is about Esopus, and at some periods of that season the crossing to Fishkill with military stores or transporting them southerly through Jersey on the westerly side of the mountains, might be precarious and expensive.

Athens, which is the incorporated village, including Esperanza and Loonenburgh on the West shore, directly opposite Hudson, is a very suitable site for a military deposit. It is at the Head of the Ship Navigation 130 miles from New York. It has all the advantages of Newburgh. The ice is seldom impassable but for a few days in the fall and spring. It is within 1000 yards of the City of Hudson; five miles from the well settled village of Catskill on the South, and about the same distance from Coxackie on the North. Turnpike roads meet at this part of the River from almost every direction. The supplies for the frontiers can be more easily and cheaply conveyed thence than from Newburgh. When the river is not closed, ships of 4 or 500 tons and brigs can come to it from the South and Sloops and Schooners from Lansingburgh and Troy on the North.

Albany possesses all the advantages of the other places, except that large vessels cannot come so far up the River, but this disadvantage is balanced by an advantage which the other places do not possess. The land carriage is only 14 miles from Albany to Schenectady and from thence there is water communication by the Mohawk to Rome (Fort Stanwix) thence through Wood Creek and Oneida Lake to Lake Ontario; and from that Lake into Cayuga and Seneca Lakes and down the St Lawrence to Montreal or Westerly (with the land carriage round the falls) into Lake Erie.

The communication by land between Albany or Athens & Boston or the Eastern or Northern States is easier than from Newburgh.

In order that the operations of the State and United States should proceed in concert and the arrangements of the one upon any particular subject be known to and have its influence upon the other in determining upon expenditures for the accomplishment of a mutual object, it will not be amiss to acquaint you with the situation of the arsenals and military stores of this State.

At New York is a well built brick arsenal, * laboratory and workshop—the arsenal 145 by 46 feet, three stories high—the workshops are 100 feet in length and one and an half stories high. The magazine is 4 miles from the City Hall, built of stone and very capacious. These together with the United States works and magazines in the harbour—the magazine and laboratory at Potters field—the contemplated arsenal near the battery—and the deposit which has been spoken of for Sagg Harbour will be sufficient to contain the ordnance, arms and ammunition needed on the sea board of this State.

At Albany we have a large brick arsenal† and some wooden buildings for workshops. The United States own a brick magazine *near this city*. To the Northward and Westward the following arrangements have been made.

I. An Arsenal of brick sufficient to contain 10 Field pieces—2000 stand of arms, and the appurtenant equipments and ammu-

*The Arsenal covered ground from Broadway and Fifth avenue, Twenty-fourth and Twenty-fifth street. The Worth Monument stands on its site.—STATE HISTORIAN.

†“The arsenal is a large brick edifice, filled with military stores belonging to the State of New York, situated in the north part of the city, late Colonie,” at Broadway and Lawrence street. “The city powder house stands on the plain at the Washington Square, and a powder house, erected in 1811, by the State at the expense of \$3,000, stands on an eminence of the plain near the three mile stone,” now known as the Prospect Hill reservoir, near West Albany.

dition has been erected this Summer at Plattsburgh on Lake Champlain. We have already deposited there 500 stands of arms, some brass field pieces, ball, powder, fixed ammunition flints &c.

II. A lot has been obtained and materials collected for an arsenal about two thirds the dimensions of the one at Elizabethtown, Essex County. The present military stores at that place are 300 muskets with the requisite equipments and fixed ammunition. This building will not be finished until next Summer.

III. At Rome (Fort Stanwix), in the county of Oneida, a brick arsenal of about the same dimensions as at Plattsburgh has been erected this Summer, and there is stored at Rome, 700 Muskets, some brass field pieces and an adequate quantity of powder, ball, fixed ammunition, &c.

IV. At Watertown, in Jefferson (late Oneida) County, arrangements are making to erect in the spring an arsenal of the dimensions of the one to be built at Elizabethtown—500 stands of arms and the proportionate ammunition and equipments are already placed there.

V. The Legislature have directed the deposit of 500 muskets &c in St Lawrence County, but the difficulty of selecting a secure and proper place has as yet prevented a compliance with that direction, but it will probably take place the ensuing winter.

VI. At Onondaga a deposit of 500 muskets &c has been made, a lot obtained for the site of an arsenal and materials collecting to complete it by August next.

VII. At Canandaigua, a brick Arsenal was completed last year, 1000 muskets—6 Brass 3 & 6 Pounders, some powder, cartridges, and other needful equipments for actual service stored in it. It will contain double that quantity of small arms

and cannon with ammunition &c. The contents of the Arsenals for small arms as mentioned above, has reference to their being on racks; but should they be in boxes, which you mentioned to be equally good, those Arsenals will contain five times the number above stated.

VIII. Batavia, in Genessee County, 500 muskets have been deposited in a small Arsenal built of wood by the agent of the Dutch Company.

The State is supplied with about 200 pieces of Field Artillery, principally brass, part of which have been distributed among the artillery companies and the residue stored in the Arsenals; and there are about 80 Iron 32, 24 & 18 pounders with garrison carriages at New York belonging to the State. We have also a good supply of ball for all calibres and some powder, & nitre for the manufacture of more, and about 5000 stand of arms in the arsenal in New York and Albany, and a large supply of fixed ammunition for small arms.

I cannot divest myself of the opinion that in case of a war with Great Britain, the northern frontier of this State and Vermont, extending from Lake Ontario eastwardly to opposite Montreal & Quebeck will require the greatest supply of warlike stores, and will be the principal theatre of war with Canada, and that it is, therefore, highly proper to have an eye to the accommodation of that district of the United States in the selection of sites for the deposit of military stores.

The preceding observations are confined to the security of this State and Vermont, but the facts stated, may not be useless in forming an opinion upon a more enlarged and comprehensive view.

I take the liberty of enclosing a small map of this State which will point out the relative positions of the places to which I have referred, and should you request it, an accurate statement of the direction and extent of all the Turnpike and other principal roads diverging from Newburgh, Athens and Albany shall be furnished.

I hope you will do me the justice to believe that this communication does not proceed from any vain or sinister motives. I shall always deem it a pleasure as well as a duty to furnish to a national administration which I respect and esteem, my mite of such local information as may be serviceable in making arrangements, which will meet with the approbation of their fellow citizens and promote the prosperity and safety of the public; and have no other motive for this letter, which is intended for your eye only.

The Honbl. Wm. Eustis.

THE GOVERNOR WRITES IN REGARD TO ARTILLERY EQUIPMENT.

Albany, Nov. 27, 1809.

Dear Sir: The sums paid Messrs Randall & Lynsen, were as follows:—

Mr. Randall.....	\$390.
Mr. Lynsen.....	110.25
	<hr/>
Total	\$500.25
	<hr/> <hr/>

Mr. Pomeroy is, I understand to be in town in a day or two, when I will advance him whatever is proper.

I am sorry the pieces for horse artillery cannot be equipped in season to send up the river this fall. As to the saddles for

postillions, I have no objection to procure them for one price with double harnesses. In case of actual service double harnesses will be required and one set now made will answer for a pattern for other pieces when emergency requires. If, therefore, you have not already equipped them for four horses, I will thank you to have one of them (a six pounder) equipped in that way. It must, however, be understood that the leading harness and saddle for postillion will be retained in the arsenal and delivered to the company on special occasions only. On ordinary occasions a set of harness for two horses is sufficient, especially for the three pounders.

The law neither prescribes a uniform for the Veteran Corps, nor authorizes the Governor to do it. If therefore they think proper to uniform, they are at liberty to select such dress as the taste and wish of the Company may suggest.

I will thank you to procure the bills I mentioned and send them to me as soon as convenient—vizt. McQueens, Robin's &c &c.

John McLean, Esqr.

THE GOVERNOR TO MOSES I. DEPUY.

Albany, Nov. 27, 1809.

Sir: Your letter of September 26 was detained in Albany until my arrival which did not take place until the fifteenth inst. I have sent your letter to the Adjutant General for his opinion, and as soon as that is received I will communicate it to you.

Moses I. Depuy, Esqr.

THE GOVERNOR GIVES ADVICE TOUCHING THE PROFESSION OF THE
LAW.

Albany, Nov. 27, 1809.

Honored Sir: Your letter of the 7th ulto. was not sent to New York, but was retained here until my arrival which was ten or twelve days since, but the settlement of my family, and the quantity of official papers which required immediate attention, have delayed an answer since my arrival. I am sorry you did not receive an answer to your first letter. I wrote within three weeks after the receipt of your first and transmitted by some friend who promised to deliver it.

There are two grades in a lawyer's progress in this State. To be admitted an *Attorney* of the Supreme Court he must have studied with a *practicing Attorney of the State* three years, and if he has not pursued classical Studies for four years after the age of fourteen, seven years study of the law is requisite.

Two years after his admission as *Attorney* he may upon an examination be admitted a *Counsellor*.

By these rules you will perceive that a person who has pursued the study of the law and been admitted in another State cannot be admitted an *Attorney* in this, but he may be admitted a *Counsellor*, provided he produces a certificate of his good character and of having practised three years as Counsellor in such other State.

If, therefore, your nephew contemplates following the profession of the law in this State I should advise him to study that profession here.

My acquaintance in North Carolina is very limited, but if you can suggest any officer or person to whom I may address a line of recommendation which will be serviceable to your nephew, be assured that I will do it with the greatest pleasure.

Please to present my best respects to Mrs. Gross and believe me to remain with affectionate and filial regard

Your sincere friend & Humble St.

The Revd. Johann D. Gross.

THE GOVERNOR TO CORNELIUS TIMPSON RELATING TO AN APPLICATION FOR A POSITION.

Albany, Decr. 20, 1809.

Sir: Your former petition and the accompanying recommendations have been deposited in the Secretary's office; but should you request it, they shall be replaced upon the files of the Council of Appointment and Submitted to them at their next meeting. A second recommendation from the same subscribers will of course be unnecessary.

You must be the best judge of the propriety & effect of personal attendance. I will barely add that with me, it seldom gives additional weight to a recommendation.

Mr. Cornelius Timpson.

THE GOVERNOR MOUNTS THE FORTS IN THE HARBOR WITH NEW YORK GUNS BUT ASKS SECRETARY HAMILTON FOR SEASONED TIMBER. FOR GUN CARRIAGES.

Albany, January 4, 1810.

Sir: Under the authority of this State, fortifications have been erected at the Narrows in the harbor of New York sufficiently extensive to receive 108 guns. The State is also possessed of cannon sufficient to arm the principal part of those works. Platforms and gun carriages are alone wanting to put

them in a complete state for action, as will appear by the report of the engineer of the United States to the war department.

From a correspondence with the late Secretary of War, I was induced to hope that the general government would equip the works erected under the authority of the State. But as I do not perceive that they have guns or carriages in the harbor of New York adequate to the supply of their own works, I have concluded to proceed in mounting our guns, and equipping the fortifications with them. We are, however, destitute of timber sufficiently seasoned for carriages, and as the National and State governments are engaged in the same important object, the security of New York against maritime attacks, I have ventured to enquire of you whether we can be accommodated with seasoned timber from the navy yard for the construction of platforms and gun carriages during the winter. I will pay in cash an adequate and full price therefor, or will provide and exchange an equal quantity of unseasoned timber of the same quantity and dimensions, or will accede to any other reasonable terms.

An answer to the preceding request is respectfully solicited.

The Hon. Paul Hamilton.

THE GOVERNOR TO THE SECRETARY—FORTIFICATIONS ON RED HOOK.

Albany, 4 January, 1810.

Sir: Perceiving by an extract from a communication of Col. Williams, furnished by him to the State Commissioners, that he has suggested the practicability of throwing up this winter a very essential and powerful battery on the south side of Red Hook, *if the same were United States property*, I take the liberty

of informing you, that the executive authority of this State is authorized by law, (a copy of which was transmitted to your department in March 1808), to contract for lands required by the President for fortifications, and in case of disagreement with the proprietors about the price to proceed adversely by a writ of *ad quod damnum*.

For your further information on that subject, I enclose a copy of the correspondence with your predecessor in relation to the acquisition of Red Hook* and beg leave to assure you of my readiness to execute any directions which you may give relative to the renewal of a negotiation for the purchase, or a resort to the alternative provided by our Statute.

The Honble. Wm. Eustis.

TO CHARLES BAKER IN REGARD TO COURT OF INQUIRY REPORT.

Albany, January 15, 1810.

Sir: Upon my arrival in Albany in November, I received your letter and intended to comply immediately with your request, and accordingly searched among my papers for the report of the Court of Inquiry; but could not find it, and concluded it had been given to the Adjutant General or filed in the Secretaries office. Upon application at both places it could not be found. Having this day searched for certain papers on file amongst the Council papers in the Secretaries office, the report to which you refer was found and I lose no time in forwarding to you a copy of that part of it of which you are not in possession. The notes which passed from you to Mr. Ross are inserted verbatim in the proceedings of the Court, and as they must be

* See pages 56, 61.

in your possession I have not taken the trouble to transcribe them. That part of the report enclosed together with those notes and the circumstances attending them constitute the whole report.

Charles Baker, Esqr.*

TO HORATIO G. SPAFFORD IN QUEST OF OFFICIAL INFORMATION.

Albany, January 15, 1810.

Sir: Your letter of the first of this month and also a precedent communication have been duly received. My official avocations have deprived me of sufficient leisure or opportunity to furnish you with such official information as may be derived from the Executive papers. But as I perceive from your last communication that you contemplate spending the winter in Albany, I take the liberty of informing you that any reasonable access which you may require to the turnpike Books, description of Military deposits, and their Contents, or other Executive documents which will aid you in the work you have undertaken, shall be cheerfully afforded.

Mr. Horatio G. Spafford, Hudson.

THE GOVERNOR'S ADDRESS TO THE LEGISLATURE.

Gentlemen of the Senate and of the Assembly,

You are assembled for the purpose of deliberating and deciding on the important concerns of this state, which, by the constitution, are devolved upon you as the immediate representatives

*For the Court of Inquiry proceedings in the case of Col. Charles Clinton against Quartermaster Baker, see Military Papers of Daniel D. Tompkins, Vol. I, pp. 158-160 and 165.

of the people. The magnitude of that duty is enhanced at the present juncture by the convulsed state of the civilized world, and by the great political events constantly occurring.

The nations of Europe have persevered, during the past year, in their sanguinary struggle, with increased animosity. Whole districts of country have been desolated; kingdoms subjugated, and hosts of innocent subjects sacrificed. These occurrences present a mournful picture of the rapacity and ambition of princes, whilst they afford a monitory lesson to the American people.

The situation of the United States has been, in the mean time, comparatively happy and enviable; for it hath pleased the Great Disposer of events to ordain peace in our borders, and to crown our year with goodness.

The prosperity of the nation, however, has not been uninterrupted. Connected as the United States are, by commercial intercourse, with other nations, we could not avoid feeling the shock of the contending powers. At an early period it was feared, that our commerce would experience material impediments from a widely-extended foreign war; and more especially, as one of the great belligerents controlled the destinies of the European continent, and the other possessed the means of domineering upon the ocean. But their professions of respect for the rights of others, and their avowed homage to the authority of the law of nations, forbade us to anticipate those gigantic strides which have overleaped the settled principles of public law, which constituted the barriers between the caprice, the avarice or the tyranny of a belligerent, and the rights and independence of a neutral. It would be painful to dwell upon every aggression, injustice, violence and insult, which we have wit-

nessed and experienced for several years past. The interdiction of neutral commerce from a part or the whole of the territories of one belligerent by a declaration of blockade by the other, without actual investment by force, and without a capacity therefor; the imposition of a tax or transit duty on neutral commerce in the ports of one power to legalize its transmission to the adverse power; the violent arrest, from our public and private vessels, of seamen, almost without regard to the place of their nativity; the liability of neutral property to seizure and condemnation by one party in consequence of search by the other of the ships transporting it, and the total prohibition of neutral commerce with one belligerent by the other, without blockade of any description, are amongst the prominent usurpations which have sacrificed much of our property, enslaved many of our citizens, insulted our sovereignty, and almost proscribed neutral commerce from the ocean. Some neutral vessels have been seized, robbed, destroyed or condemned upon frivolous and provoking prettexts, not even justified by the arbitrary and ruinous restrictions above mentioned; and one of our public armed ships has been insultingly attacked, several of her crew killed, and others taken forcibly away; an act acknowledged by the nation, whose officer committed it, to be wholly unwarrantable, but which still remains unatoned.

The constant evidences of a desire on our part to maintain a strict and impartial neutrality; the earnest and able appeals for redress by our rulers to the honor and justice of the belligerents, and our continual remonstrances against their incessant and unprovoked encroachments upon neutral commerce, have all been disregarded or evaded. No revocation or material relaxation of the offensive decrees of France has been obtained.

With Great Britain an arrangement was effected in April last, which, at the same time it evinced the impartial and pacific intentions of our administration, and a returning sense of good faith and upright conduct in the cabinet of St. James, diffused a lively satisfaction through the nation, and presaged a speedy restoration of good understanding and harmony between the two countries. But our hopes were blasted, and the wise and patriotic intentions of our rulers, baffled by an unexpected disavowal of the agreement and an unqualified refusal to fulfil its stipulations on the part of England. Since the recall of the minister who negotiated the arrangement, nothing has occurred to brighten the prospect of an honorable adjustment of our differences. On the contrary, instead of evincing an amicable disposition by substituting other acceptable terms of accommodation in lieu of the disavowed arrangement, the new minister has persisted in impeaching the veracity of our administration which a sense of respect for themselves, and for the dignity of the nation they represent, forbade them to brook. They adopted towards him on that occasion, the most moderate and least irritating course of treatment, a course demanded by his deportment, and meriting the approbation and support of every American, who feels anxious to preserve the honor and independence of his country.

The momentous duty of deciding upon the attitude which the United States shall assume in the present emergency, is delegated to intelligent and virtuous agents. In their wisdom we may safely confide; and it becomes us to place a firm reliance on their patriotic exertions to devise such measures as may be best calculated to promote peace and prosperity, or to provide for the security of our common country in the event of war. For

all the efforts of human wisdom directed by the purest virtue in our rulers may prove unavailing without that union, confidence and support which the genius of our government, the spirit of patriotism and the dictates of reason, nature and christianity impose upon the members of the community. If the members and the head be united and act in concert, no foreign power can endanger the life or safety of the political body.

With respect to the internal affairs of this state, it affords me great satisfaction to inform you that more than usual proficiency has been made in improving and extending agriculture and manufactures. The liberal patronage which the legislature has been pleased to extend to domestic manufactures, by loans and bounties, has been attended with the most salutary effect. The enlightened policy of a few individuals has also introduced a breed of sheep which essentially promotes the fabrication of cloths of a superior quality.

It rests with the legislature to decide, whether, by further encouragements, an additional stimulus may not be created, which will enable our citizens to convince foreign nations that we are not dependent on them for manufactures.

The measures which have been pursued under the various laws, providing for defence, will be particularly detailed to you in a separate message. In the mean time I would remark that about forty-five thousand dollars of the fund appropriated for fortifying the city of New York, remains unexpended. A very effective water battery of durable mason work, called Fort Richmond, has been completed during the season, on the west side of the Narrows, and is ready to receive twenty-seven cannon. This battery is capable of sustaining, with inconsiderable additional expense, a second tier of guns. Two other batteries,

each extending on the easterly and southerly sides of the point of Staten-Island, have also been formed, and are in readiness to receive platforms and guns. The line of the lower battery is six hundred and seventy feet, and that of the upper four hundred and eighty feet, affording together ample space for eighty guns.

Another battery capable of mounting twelve guns, has been excavated from the hill at an intermediate distance between the last mentioned batteries and the fort described in a communication to the legislature at their last session. A well of one hundred and forty-five feet in depth, has been sunk within the contemplated lines of the main work, and a wharf constructed near Fort Richmond for the accommodation of vessels drawing ten feet of water. The whole has been managed gratuitously by five commissioners, to whom, and to the colonel of engineers, the state is principally indebted for the celerity, ability and economy with which that service has been performed. Their report, accompanied with plans of the several batteries, will be submitted to you in a few days by a separate message, and will furnish all the information requisite to enable the legislature to give further directions on that subject as may be deemed useful and proper.

An official statement of the colonel of engineers will, at the same time, be laid before you, describing the present state of the interior defence of the harbor of New-York, so far as relates to the fortifications erecting by the United States. One hundred and sixty-six guns may now be mounted on those works, and they are calculated, when completed, to receive three hundred and four guns and ten mortars. The progress which has been made in the purchase of ordnance, small arms and

ammunition, and the measures taken pursuant to the act to provide for the defence of the frontiers, will form the subject of a special message.

Ten years will have expired at the next regular session of the legislature, since the laws of the state have been revised; some of them have become obsolete, others have expired, and experience has shewn, that many of those in force are susceptible of amendment. The report of the decisions of the supreme court, will afford better materials for revisal than were formerly to be obtained, and moreover the statute books have become too voluminous and expensive to be purchased by many citizens and officers who ought to possess them. It is, therefore, respectfully submitted to your wisdom whether preparatory arrangements for that purpose, at the present session, would not conduce to the benefit of the community.

I cannot omit this occasion of inviting your attention to the means of instruction for the rising generation. To enable them to perceive and duly to estimate their rights; to inculcate correct principles and habits of morality and religion, and thus to render them useful citizens, a competent provision for their education is all essential. The fund appropriated for common schools already produces an income of about twenty-six thousand dollars annually, and is daily becoming more productive. It rests with the Legislature to determine whether the resources of this State will justify a further augmentation of that appropriation as well as to adopt such plan for its application and distribution as shall appear best calculated to promote the important object for which it was originally designed.

Gentlemen, at a period of uncommon agitation and embarrassment, it is among the important duties required of us to soar

above local and partial views; to cherish and inculcate a disinterested national spirit; and to secure, by every possible means, the blessings of liberty to ourselves and our posterity; and it only remains with me to assure you that I shall in all things heartily co-operate with the different branches of government in the necessary measures to promote the general welfare.

Albany, January 30, 1810.

REPLY OF THE SENATE.

The unjust, multiplied and continued aggressions of the belligerent powers, their violent infractions of all those principles and maxims which ought to regulate the conduct of nations, and their determined perseverance in a system of spoliation and insult, have produced an extraordinary state in our foreign relations which cannot fail of impressing the Citizens of United States with a just sense of the crisis, and with a firm determination at every hazard the honor and rights of their Country. And, while we contrast the violence, the tyranny and the oppression of foreign governments, with the moderation the wisdom and the justice of our own, and compare the relative prosperity of our country with the calamities which the other nations of the civilized world are now suffering, we are penetrated with the most exalted sense of the divine goodness, and are fortified in all our convictions of the excellence of a government which recognizes the people as the source, and their happiness as the object of all legitimate authority.

It was to have been hoped, that Great Britain, feeling her interest identified with her justice, would have executed with good faith the arrangement made in her behalf, by her minister plenipotentiary, and that all her collisions and controversies with her would have been settled in a manner honorable and advantageous to both countries. An expectation so reasonable in itself and so imperiously demanded by every principle of justice, has been disappointed; and that government has persisted in a course of aggression, and has sent to us a minister plenipotentiary, a man who has heretofore made the instrument of outrage to a neutral nation, whose conduct in this country has been characterised by insolence, and who has dared to impeach the veracity and to attack the honor of our government. The respect due to the American name and people, rendered it proper in the national executive to refuse any further communication with the wisdom and patriotism of our national government will devise and execute the most efficacious measures to vindicate our rights, to redress our wrongs, and to repel with energy any future outrage.

The senate are happy to, learn the progress which has been made in the purchase of ordnance, arms and ammunition, and in the erection of the works intended for the protection of the port of New York. At this important period, all objects that relate to the defence of the country must be considered as of primary importance, and as such they shall receive our most decided countenance and support.

The Senate are also duly impressed with importance of promoting the agricultural and manufacturing interests of the state. They have observed with the greatest satisfaction the attention which has been paid by some of our patriotic citizens, to improve the quality and increase the quantity of our wool, and the specimens of cloth which have been exhibited in this state, the workmanship of our own looms, afford the pleasing hope, that in a short time we shall be entirely independent of Europe for the supply of our woollen manufactures.

The revisal of the laws and the proper means to be devised for the instruction of our youth, are subjects so highly interesting as to merit, and shall receive our particular notice. The various interesting subjects recommended by your Excellency manifest your attention to the prosperity of the State.

And with a full reliance on the patriotism, integrity and talents of your Excellency, we assure you of our cordial co-operation in all measures which may promote the public welfare.

John Broome,
President of the Senate.

Albany 16th February 1810.

THE GOVERNOR'S REPLY TO THE SENATE.

Gentlemen: The measures of the general government, in repelling foreign injustice, will be more or less efficacious according to the degree of confidence and support imparted by the citizens at large. It is, therefore, to be hoped, that at this momentous period, they are generally and deeply impressed with a just sense of the rights and honor of their country, and will rally round its standard in opposition to the injustice and insults of the belligerents. The promptitude and firmness with which the Senate have arrived at their opinion upon our foreign relations, and their confidence in, and determination to support the administration of their own country, is a renewed evidence of their wisdom and patriotism, and worthy of general imitation.

For your expressions of confidence in me, receive, gentlemen, my unfeigned thanks.

Daniel D. Tompkins.

Albany, February 19th, 1810.

REPLY OF THE ASSEMBLY TO HIS EXCELLENCY DANIEL D. TOMPKINS.

Sir: We acknowledge, with unfeigned gratitude, the unmerited goodness of Divine Providence towards our common country.

The duty of legislating for a large and opulent state, is at all times important and highly responsible.

Whether the magnitude of that duty is enhanced at the present juncture by the convulsed state of the civilized world, and the great political events, constantly occurring, it is not in our province to determine.

The powers constitutionally vested in the legislatures of the particular states, do not authorize any interference on their part, with the foreign relations of the United States. If, however, the general government, to whose consideration this and many other topics embraced in your excellency's speech, properly belong, shall require the co-operation of this house, in any measure necessary to maintain the dignity and provide for the protection of the nation, the well known patriotism of this state is a sufficient pledge that such co-operation will be promptly and cheerfully afforded.

The mournful picture which your Excellency has drawn of the unhappy condition of the nations of Europe, and the monitory lesson which it furnishes to the American people, of the rapacity and ambition of Princes, cannot fail to make a deep impression on every patriotic mind; as men we sympathize with the sufferers, and as Americans we feel a deep solicitude to escape similar calamities.

We have witnessed with strong emotions of indignation and resentment the aggressions on our neutral rights by the belligerents, but we have also seen with extreme regret, that those aggressions have not been met or resisted in a manner becoming the impartial neutrality, or by means consistent with the honor and resources of our country.

It does not comport with our sense of propriety to assume the office of censors, on the conduct of the general Administration, and, therefore, we forbear to enter into a discussion of the unatoned injury we have received, by the insulting attack on one of our public armed ships.* But as your Excellency has been pleased to press the subject upon us, truth constrains us to observe, that if such atonement has not been acknowledged by the nation whose officer committed it, to be wholly unwarrantable; it is a mortifying proof either of the imbecility of our nation or the want of energy in those who preside over its destinies.

We have to lament that when called upon by your excellency to recognize the constant evidences of a desire on our part to maintain a strict and impartial neutrality, those evidences were not exhibited to enable us to decide understandingly on their merits; and we are the more reluctant to express any opinion on this interesting point, when we reflect that the people are utterly unacquainted with the state of the negotiations between this country and one of the belligerents, with whom we have a subsisting treaty, and from whom we have received repeated and flagrant injuries, aggravated by the most humiliating and irritating circumstances.

While on the one hand the administration have thought proper to disclose, as we have reason to believe, the whole of the correspondence relative to our differences with Great Britain, it has on the other hand given publicity only to detached and apparently mutilated extracts of the correspondence with France.

If, as we are bound to presume, a full disclosure of the communications, with the latter government, is withheld from the public for cogent reasons, we trust that it will not be deemed disrespectful in us to withhold a blind recognition of the existence of constant evidences of a desire on our part to maintain "in fact a strict and impartial neutrality." For although we freely admit that a reasonable confidence is due to the administrators of the general government, we cannot concede that it would accord with the duty of this branch of the legislature to commit itself on such an important point, without a full knowledge of every material circumstance connected with it. Such a step would in our opinion be an Act of servile courtesy unbecoming the representatives of a free and enlightened people.

The disavowal of the part of Great Britain of the arrangement entered into by her minister with the United States, is to us a matter of deep concern, inasmuch as we participated in the lively satisfaction which the nation derived from the prospect of a speedy restoration of good understanding and harmony between the two countries. But when the accredited representative of the British nation has declared solemnly that it was disavowed because concluded in violation of express instructions to her agent, it would be rash in us, without clearer evidences than we possess of the insincerity of that declaration, to impute the disavowal to bad faith.

As your Excellency may expect that in answering your speech we should express an opinion on the late rupture of the negotiation with the British minister would be highly gratifying to us had you pointed out the impeachment by that gentleman of the veracity of our administration, for^b in that case we should have approbated cordially the course of treatment which he has received. We have sought in vain for proof of the fact, and, therefore, we are at a loss to conceive how a measure calculated to close the door of accommodation and to precipitate the nation into a calamitous war, can merit the approbation of any American who feels anxious to maintain the honor and preserve the peace and happiness of his country.

Should the momentous duty of deciding upon the attitude which the United States shall assume in the present emergency, be performed with wisdom and fidelity by the

*The attack, June 22, 1807, by the British frigate *Leopard*, 50 gun ship, upon the American ship *Chesapeake*, off the Virginia coast. See *Military Papers of Daniel D. Tompkins*, Vol. I, pages 28-30.—STATE HISTORIAN.

agents to whom it is confided, we assure your excellency that we shall be among the first to render them the tribute of deserved praise. And should war ensue, we shall cordially unite with our fellow Citizens throughout the union, to meet the shock with all that firmness and zeal, which real patriotism will dictate.

At the same time we have no hesitation to declare that we are decidedly opposed to a war, provided, it can be avoided consistently with our national honor and safety.

We should consider it as one of the greatest calamities to be involved in a war with the only remaining European power which presents a barrier to that universal dominion, at which one of the belligerents manifestly aims, and to which he approaches with rapid and awful strides. It is moreover a lamentable truth that our country is unprepared to prosecute a war with either of the belligerents, however necessary the measure may be. In all the essential means which that deplorable state requires, as well for offensive as defensive operations, we are greatly deficient, but more especially in the important and indispensable requisite of money.

We are justly alarmed at the report of the Secretary of the Treasury, in which he discloses the melancholy fact, that we are reduced to the necessity of resorting to a loan of four millions of dollars and upwards, to defray the ordinary expences of the general government. This communication is equally unexpected and discouraging to the people of the United States, and we sincerely hope that those who are entrusted with the superintendence of their national concerns will institute such an enquiry into the true causes of the exhausted state of the treasury, as the magnitude and urgency of the case imperiously call for.*

William North, Speaker of the Assembly.

Albany 24th February 1810.

THE GOVERNOR REPLIES TO THE ASSEMBLY.

Gentlemen: Being desirous that the intercourse between the different branches of the Government, should be conducted with respectful urbanity and dignified decorum, and fully determined that no consideration shall ever induce me to depart from that line of conduct, it cannot be expected that I should notice all the expressions in this answer of your honorable house.

At the commencement of the present important session of the legislature, it became my duty to submit to them such views of the interesting affairs of the nation, and of the conduct of its administration, and to inculcate such principles of national union, as appeared to me to be inseparably connected with the interest, honor and peace of our common country. A constitu-

*The hostile tone of this document reflects the sentiments of a majority of the Assembly, which for the first time in a decade was under the control of the Federalists, who were opposed to the National Administration and to the war sentiment that was gradually but surely developing throughout the country, because of the repeated humiliating aggressions of Great Britain. During the political campaigns of 1809-10 State issues had been forced to the rear by the preponderating influence of national questions.—STATE HISTORIAN.

tional injunction, as well as a sincere attachment to the rights and independence of my country imposed that duty. Fully persuaded that the conduct of the national government has been distinguished by the purest principles of patriotism, I cannot subscribe to the justice or propriety of your intimation, that our negotiations with either of the belligerents have been improperly managed or unduly concealed. Nor can I suppose that you can justly complain that the aggressions upon our national rights, have not been met in an honorable and dignified manner; as recourse has been had to every mode of redress, except an appeal to the sword; against which you appear to entertain the most decided opposition. If the American people are just to themselves, and true to their Government, we have nothing to apprehend from the arts or the arms of any foreign power. Let us not by inculcating distrust, or exciting suspicion against the national administration, weaken their efforts in the support of our rights. But with a humble reliance on the blessings of the Supreme Being, and with a firm determination to maintain the honor of our Country, let us unite our exertions to invigorate the Arm of the national government, and to enable it to repel with energy the aggressions of every foreign power.

Upon examining the report of the Secretary of the Treasury, it will be found that the suggestion of loaning three or four millions of dollars, is not for the purpose of enabling that department to defray the ordinary expenses of the government, or to pay the annual appropriation of eight millions of dollars, towards discharging the national debt, but to meet any expenses for the navy and military departments above three millions of dollars. And when we reflect that the diminution of income is principally to be ascribed to those aggressions on neutral

commerce, which excite the indignation and resentment of the assembly: and that without direct or internal taxation, or loans, and under unprecedented difficulties and embarrassments, the government has been enabled, within the last nine years, to extinguish nearly thirty five millions of the national debt, and to pay upwards of six millions, under the British treaty and Louisiana convention, and yet to retain a surplus in the treasury; and when we contemplate the immense resources to be derived to the nation, from more than six hundred millions of acres of public land, we must be perfectly satisfied that we are able to meet every emergency which the injuries and insults of any foreign power may render unavoidable. Should we, therefore, be driven to the necessity of expending even forty millions for the purpose of asserting our rights and maintaining our independence the national debt would not then be greater, nor the finances of the country less flourishing, than they were previous to the period I have mentioned.

Whilst we acknowledge with unfeigned gratitude, the overruling goodness of Divine Providence, it becomes us to implore him to continue his signal blessings and to endow us with wisdom to discern, and virtue to pursue the real interest and happiness of our country.

Daniel D. Tompkins.

Albany, February 24th, 1810.

NEW YORK'S HARBOR DEFENCE.

THE COMMISSIONERS OF FORTIFICATIONS AND COLONEL WILLIAMS
FILE THEIR REPORTS WITH THE GOVERNOR.

Gentlemen: The report of the commissioners of fortifications, together with the official communication of the Colonel

of engineers, relative to the works erecting by the United States, are now submitted to you. They are accompanied with an account of the commissioners specifying the particular objects to which the expenditures have been applied. The Act making the appropriation for works of defence, expresses a confidence that the advances by the state will be reimbursed by the United States. To accomplish that object and to adjust the terms upon which the transfer of the property and works on Staten Island shall be made to the United States, further legislative provision is necessary.

I also avail myself of this occasion to transmit to you my account of monies drawn and expended pursuant to the provisions of the several acts authorising the purchase of ordnance, small arms and ammunition. Two contracts have been made for small arms, the one for the manufacture of two thousand at New Haven, and the other for the manufacture of one thousand at Pittsfield, in Massachusetts. Samples of the muskets delivered under each contract are submitted to the inspection and examination of the members of the legislature. Three thousand muskets are still to be purchased, and should no objections be made to the samples submitted, additional contracts will be entered into for that number.

Daniel D. Tompkins.

Albany Feby. 6th, 1810.

REPORT OF CHAIRMAN CLINTON.

Sir: We have the honor to transmit herewith to your Excellency, an account of our expenditures in erecting fortifications at the Narrows under the appointment with which you honor'd us.

Presuming that it would be acceptable to your excellency to receive a circumstantial account of the works which have been constructed, we requested Col. Williams to furnish us with a statement, and we have now the honor to enclose his report to us on the subject.

From that your Excellency will perceive that a powerful battery has been erected on the S. E. point, which will mount 80 cannon, and is now ready to receive the platform; that a battery to the north of the former, in a commanding position, capable of mounting from twelve to fifteen guns, is also ready for laying the platform; and that a battery constructed of solid masonry mounting twenty seven cannon is now completely prepared for the reception of its guns. Thus a few weeks labor will enable us to present a defence at that point of our harbor of one hundred and twenty guns, a defence which, with corresponding fortifications on the eastern side, will be respectable and formidable.

In commencing our operations at the Narrows, we had in view the amount of the appropriation by the legislature for that object, and therefore undertook no works which that appropriation would not complete. The works are however connected with the general plan of defence proposed by Colonel Williams, and are in themselves powerful, and are judiciously planned as to their support of each other.

Though we are persuaded that our expenditures have hitherto been conducted with care and economy, still many expenses have been incurred which add greatly to the total amount and which yet do not strictly belong to works of defence. They were such however as the nature of that situation demanded, without which no work could have been constructed, and which are of themselves extremely useful.

Among these may be reckoned the labor bestowed in forming two extensive roads to the southern and northern summit of the hill, large and commodious barracks and offices for the accomodation of three hundred men, and the superintendents who directed them. A blacksmith's shop and the necessary tools, carpenter's and stonecutter's shops, an extensive wharf for the landing of materials, cannon, stores &c., which cost three thousand dollars: and a well which was sunk in the S. W. bastion of the intended main work on the hill. This last was necessary for the supply of water to a garrison, and which would also more than pay the expense of sinking it, by the water which it will furnish in the construction of the mason work of the fort, and which could not otherwise be procured but at immense labor and expense.

As labor could not be conducted to advantage during the winter season, we concluded to suspend all further operations until the spring, and on the first of last month we reduced the establishment to six men and a superintendent, who are employed in the care of the property at the Narrows, and in making such repairs as the weather may render necessary. To render the works efficacious we are of opinion with Colonel Williams that the eastern side of the Narrows should also be fortified. How far this will be considered as proper to be done by this state, or may be made a subject of arrangement with the general government, your excellency will best judge. Our remaining funds will, we expect, enable us to erect the tower part of the main work on the hill, which, while it will be powerful in the annoyance of shipping, will also afford protection to the works already made.

We cannot conclude this report without expressing to your Excellency our sense of the services which we have received from Colonel Williams during the progress of the works. While we have been indebted to his intelligence for the plans of our operations, his assistance has been afforded to us with a promptness and zeal that were highly gratifying and served greatly to enhance the services rendered.

We are with the highest respect, Your humble servants By order of the Commissioners,

De Witt Clinton, Chairman.

REPORT OF COLONEL WILLIAMS.

New York, January 18, 1810.

Gentlemen: In compliance with the invitations you have frequently given me, I have repeatedly visited the forts on the east side of Staten Island in the Narrows, and I have great pleasure in noticing the conformity of the plan I had the honor to suggest to the Governor, so far as the works have progressed. The better to evince my concurrence in the execution of the plan, and to comply with the request you have verbally honored me with, I will take the liberty of making such observations as naturally arise out of a description of the works. And first give me leave to observe that as in all probability any sudden attack will be a maritime one, it was in my opinion very judicious to commence your operations near the water. Your battery on the beach is in this point of view in the best possible position, and is so fully exposed to the fire of the protecting work, intended to be erected on the hill in its rear, that it will be totally impossible for an enemy, however numerous,

to hold it long enough to do it any injury whatever. This battery not only presents a force of twenty seven guns behind an impregnable wall, but it is capable of being flanked on each side by the wings on which may be mounted ten or fifteen guns so constructed as to protect it in every part except the direct front, (where it may be considered unassailable) and be themselves protected by the main work. Two traverses should be erected on each side of a diametrical line, to protect the interior from the effect of a ricochet shot, and between these traverses, somewhat further in the rear, a magazine may be very safely placed. Two furnaces for heating shot might also be placed so as to have on each side one of these traverses between the magazine and each of them. This battery is capable of being raised so as to cover another tier of guns, with no more additional expense, than an additional height of about twelve feet and another platform. The Narrows is no place for an enemy to make a descent at, or to attempt to batter from, owing to the rapidity of the current, unless he were to come to an anchor, which when the protecting works shall be finished would be certain destruction.

The battery "A" extending in a right line along the Narrows to the southward of fort Richmond just described, and thence in a curve round the point of the southern extremity of that entrance, is sixty eight and an half feet above high water mark, but the hill is so very steep that it is at a very small distance from the shore, the whole length of this line is six hundred and seventy feet, which will afford sufficient space for a platform to contain forty eight guns. The superior talus of this parapet, which is of impenetrable thickness, descends to a direction which strikes the water as near the shore as any ship of force

would venture to come, so that it is impossible to pass under cover of the hill. Immediately in the rear of this platform is another battery in the nature of a cavalier, of a sufficient height to fire over it, and also to command the channel; this cavalier is in extent four hundred and eighty feet, affording space for a platform to contain thirty two guns, so that the whole force of this battery may be taken to be eighty guns, all bearing upon any passing ship.

I must in this place take the liberty of observing that it is absolutely necessary to support these batteries by a stone revetment, to ascertain height, and to lead the water on the superior talus to certain points, whence it should descend in spouts, otherwise the heavy rains will inevitably wear gullies, which would in time wash the whole away; but with this precaution, the works may be made permanent.

At the distance of sixty four yards and rising to an elevation of twenty four and a half feet north of battery "A," is an excavation from the hill which in the plan is called battery "B," this also commands the channel and is capable of mounting twelve guns. Fort Tompkins (just commenced and the plan for which is fully described in my letter to the Governor of the 21st October 1808) is three hundred and seventy two yards from battery "A," each battery commanding in succession the one immediately preceding, while fort Tompkins completely commands the whole. The elevation of its proposed ramparts is fifty five feet above battery "B," and eighty above "A," and the whole height above the beach where fort Richmond stands is one hundred and forty five feet in an angle of depression 45 degrees. The side of the hill is so steep, and so capable of being defended by a berme with palisades, and with an abbatis

both below and above the berme, that it may be considered as unassailable in a hostile manner.

Here terminates the description as far as the works have progressed, but before I close the subject, I beg leave to reiterate the observation I had the honor of submitting to the Governor when I first suggested the plan in Octob. 1808, that all this work can only be considered as a commencement, and that I ought not to be held responsible for the efficacy of the plan, unless it be carried into full execution on both sides of the Narrows.

Since it was hinted that a Castle on Hendrick's reef would be essential to the defence of this passage, one has been erected on the west point of Governor's island: it is therefore no longer a problematical proposition, for where the centre of that castle stands, loaded vessels have passed; and there are but from three to eight feet of water on the reef; the battery off Hubert and L'ight streets has been founded in thirty five feet of water.

Thus, Gentlemen, have I complied with your request, and I shall be ready at all times, as far as it is in my power to render you any acceptable service.

I have the honor to be with the greatest respect, Your most
Obedient Servant

Jona. Williams,

Colonel Commandant of Engineers.

The Honorable the Commissioners on Fortifications, New York.

New York, January 19, 1810.

Sir: I have received your Excellency's favor of the 6th Inst. and in compliance with your request, shall describe the present state of the defence of this harbour.

1. The battery off Laight and Hubert Street is ready to receive its guns, and is capable of mounting 16 guns of the heaviest metal.

2. Fort Columbus on Governor's Island is finished, and capable of mounting one hundred and four guns, of which upwards of fifty are already on the ramparts. This is a regularly enclosed work of masonry, with ditch, counterscarp, covertway and glacis, capable of resisting a large siege.

3. Two tier of platforms in the castle at west point of Governor's Island are finished, each being capable of receiving 26 guns, on the lower platform, eleven French 36 pounders, are already mounted. This lower tier may be ready for action as soon as the guns are all mounted, but it would not be advisable to mount the second tier until the arches are dry, unless compelled by the necessity of the occasion. The whole force of this castle when completed may be stated at 100 Guns, including the terrace on the top.

4. At Ellis's island there are eight 32 pounders, and the platform is capable of mounting twenty.

5. At Bedlow's island the mortar battery may be ready to receive eight or ten mortars as soon as they can be mounted, but the main work, which is calculated to mount forty guns, is about one half done: it will be completed in the course of the next summer.



John Williams

6. Also in the course of next summer the first tier of a castle off the old Battery will be completed, and mount thirty of the heaviest pieces.

7. There are in the arsenal, between State and Wall Streets, 24 pieces of heavy artillery ready mounted on travelling carriages.

For a description of the works at the Narrows, I beg leave to refer to the annexed copy of a letter I wrote to the commissioners on fortifications by their request.

From the foregoing, you will perceive that the interior defence of this harbour, in its present state, may amount to one hundred and sixty guns, or thereabouts, and when completed will amount to three hundred and four guns and ten mortars, exclusive of the travelling pieces. The defence at the Narrows as far as the works are ready, or nearly so, would amount to one hundred and nineteen guns, if they were mounted. But the ultimate defence, if the plan were completed, might be made equal to four hundred guns; that is, two hundred on each side of the Narrows.

I beg leave to remark that there are on Staten Island, two points which seem pre-eminently for mortar batteries, one on the north and one at the southern extremity of the Narrows, and both under complete command of Fort Tompkins. The first would annoy ships at the Quarantine ground,* and the other would probably prevent their lying between Gravesend bay and the west bank; the present season necessarily suspends all operations of masonry, except those of a preparatory kind, but no time is lost that can be usefully employed, and I hope to proceed with rapidity at the opening of the spring.

*The old Quarantine up to recent years was maintained in the lower bay on the west bank, midway between the Narrows and Sandy Hook.—STATE HISTORIAN.

In the course of all my duties in this harbour, it has been in the highest degree satisfactory to know that I have enjoyed the confidence of your Excellency and the commissioners, and I beg you to believe that I entertain a grateful sense of your and their very obliging attention.

I have the honor to be, with the greatest respect Your Excellency's Most Obedient Servant

Jonathan Williams,
Col. Commdt. of Engineers.

His Excellency Governor Tompkins.

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TO THE SECRETARY OF THE TREASURY—THOMAS DAVIS RECOMMENDED FOR COLLECTOR OF THE NORTHERN DISTRICT—ATTITUDE OF THE ST. REGIS INDIANS.

Albany, Feby 19, 1810.

Sir: Mr. Massy on his return from Washington informed me that it was in contemplation to divide the district of Sackets Harbor, and that he had mentioned to you Mr. Thomas J. Davis, of Oswegatchie in St. Lawrence County, as a suitable person for Collector of the northern district. He also suggested a wish that I would transmit to you my opinion of his fitness. I am not intimately acquainted with Mr. Davis, altho' I have had some interviews with him, during the last & present winter, on his visits to the seat of our State government. He was appointed Sheriff of the County of St. Lawrence at its first organization, and continued in it for four years being the constitutional limit of holding the office. I have heard no complaint against him in that office, and his repute as such officer. His intelligence and character as appears to me, from his conversation and from hearsay of his reputed steady attachment to the administration and republican principles, induce me to believe that he is a suitable person for collector. The Vice President will probably recollect him, as he received his appointment as Sheriff during his administration of the government of this State, and if he does, will be able to give you more particular information as to his character and qualifications.

I will here take the liberty of adverting to a circumstance in that quarter of the State, which although it does not particularly appertain to your department, will, I hope, be communicated by you to the President. The St. Regis Indians, I am credibly informed, have by one Mr. Montanye whom the British

government has placed near them, on the Canada Side of the line, and by donations of land and money from that government, become much attached to the British, and treat the inhabitants on our side with much greater coldness and distance than they were wont to do. It is also suggested that Col. Lewis, one of their Chiefs, and who is much attached to the United States, and served them as an officer in the late war, has left the settlement through fear arising from that attachment. It is a fact within my own Knowledge, that Col. Lewis left St. Regis in the Spring and has not been there since; for I saw him at Oneida in August last, in New York in September, and he is now in this city, with Oneida Indians. But whether his absence is owing to the cause assigned by the neighboring inhabitants, I know not. Cap'n Gray another man formerly influential among them, it is also said, is extremely uninfluential and unpopular arising from the same cause. Captain Dennison a respectable inhabitant of the neighborhood, is now here, and with others, gives me the above information and mentions the anxiety of our citizens in the vicinity.

I take the liberty of communicating this information, for the purpose of enabling the General Government to take measures to counteract the influence of the British over that tribe, or in the event of hostilities with that Nation, to give timely and efficacious protection to the inhabitants of St. Lawrence County.

The Honbl. Albert Gallatin.

P. S. Since writing the above I have seen Mr. Hopkins, the member from St. Lawrence, who lives about 20 miles up St. Regis River. He is of opinion those Indians will be neutral in case of war, although he agrees they are divided in their attachments, and that a majority of them profess a friendship for the British.

THE GOVERNOR EXPRESSES HIS VIEWS ON THE PROPOSITION TO PARDON A COUNTERFEITER OR FORGER.

Albany, Feby 24, 1810.

Sir: Your letter in relation to Piercey's pardon was duly received last evening. I expect that at the spring session of the Judges &c. at the State prison, upon laying the papers before them, they will recommend him to pardon, in which case the pardon will issue of course. I mentioned to Mrs. Piercey that I could not pardon before that time.

The crime of forgery or passing counterfeit money has become so prevalent that it becomes the duty of public officers to become extremely circumspect as to any acts which may countenance or extenuate that crime. I sympathise with the connections, and as an individual, would gladly relieve them from their anxiety, but as an officer, I feel bound to postpone any interference until the Spring session of the State prison board.

Oliver Waldron, Junr. Esqr.

ONEIDA INDIANS DESIROUS OF SELLING MORE OF THEIR LANDS.

Gentlemen: The Christian party of the Oneida Indians have offered to sell to the state certain lands, described in the annexed Memorandum Marked A.

It rests with the Legislature to determine whether such purchase shall be authorized and to direct the time and manner of conducting a treaty upon that subject.

Daniel D. Tompkins.

Albany, 26th February 1810.

A.

The Christian party of the Oneida Indians offer to sell to the State, as follows:

After laying out a square for themselves, extending from Myndert Wemple's tract to the turnpike gate, 114 chains to the Eastward thereof, along the turnpike road, and north thereof the same distance; then they propose to cede to the state all their land extending from said square to the Oneida lake, and bounded east by a line drawn from the north East corner of said square, to a point on the Oneida Lake half a mile distant from the Oneida Creek, and on the West by the lands heretofore ceded? Also, the following tract: Beginning where mud-creek empties into the Oneida Creek, to the southward of the Oneida Castle, and running thence in a straight line south to the line of the Pagan party, then along the same east to the Oneida Creek, and then down the same to the place of beginning.

Gentlemen: The Expense and payments attending the treaty with the Christian party of the Oneida nation of Indians, amount to three thousand and fifty five dollars, and two cents, for the reimbursement of which, it is necessary provision should be made by law. The treaty, duly executed and acknowledged, is herewith sent, for the inspection of the members.

Daniel D. Tompkins.

Albany, March 7th, 1810.

THE GOVERNOR TO THE LEGISLATURE REGARDING THE MILITARY
RESOURCES OF THE STATE IN 1811.

Gentlemen: By virtue of the authority granted by the Act of the legislature of this state, entitled "an act making further provisions for the erection of an arsenal in the city of New York, and for other purposes," passed Nov. 8th, 1808, I have caused the gores of land therein mentioned to be sold for the sum of fourteen thousand and eighty three dollars and eleven cents. That sum has been partly expended, pursuant to the fifteenth section of the supply bill of 1809, in the extinguishment of a balance of one thousand seven hundred and thirty three dollars and seven cents and an half, due the commissary of military stores upon the account of expences in erecting a powder magazine in the city of New York, and in the payment of a balance of one thousand six hundred and forty four dollars and ninety-two cents, due to me upon the arsenal account, previously audited by the comptroller, which last balance was directed to be repaid out of the proceeds of the sale, by the act first above mentioned. In consequence of those two payments the residue of the considera-

tion money has proved insufficient to complete the arsenal and to erect and finish the lavatory, work-shops, keeper's dwelling, with fences &c.: But they have nevertheless, been finished at an expense of one thousand two hundred and thirty-four dollars and nine cents, beyond the proceeds of the said sale; for the payment of which balance legislative provision is requested. I beg leave also to observe that the land upon which the arsenal and appurtenant buildings in New York are situated, has been, as I am informed, assessed for the expense of purchasing the requisite ground for the street through which the contemplated canal is to run. The same act which may direct the preceding balance, may also with propriety provide for the payment of the assessment for Canal street.

The purchase of two thousand stand of small arms, contemplated by the seventeenth section of the supply bill of 1807, has been effected. The arms were manufactured by Mr. Eli Whitney of New Haven, in the state of Connecticut, and are, in the opinion of competent judges, equal if not superior to any imported arms. The cost of the two thousand has been twenty six thousand dollars. The manufacture and delivery of an additional quantity of two thousand muskets of the same quality has been contracted for by Mr. Whitney. They will be delivered in the course of the present year. The last mentioned contract and also one entered into with Mr. Pomeroy of Pittsfield in Massachusetts, was made pursuant to the act authorising the purchase of an additional quantity of ordnance, arms and ammunition, passed April 8th, 1808. A considerable part of the arms contracted for with Mr. Pomeroy has been received. The advances upon the two last mentioned contracts exceed thirty thousand dollars. The appropriations heretofore made will however be

sufficient to meet all further payments upon those contracts and for other military purposes.

In pursuance of the authority given by the act of 1808, a large quantity of nitre was purchased and a contract was made for manufacturing it into powder. It was previously ascertained that the purchase of the materials, added to the contract price for manufacturing it, fell short of the price at which powder could be purchased, and that the quality of powder manufactured at New Lebanon, in this state, was equally good with that which could be purchased at market. By contracting for the manufacture of powder there was not only a saving to the public, but at the same time encouragement was given to the enterprising proprietors of a powder manufacture within our own state. The nitre purchased was accordingly delivered to the contractors, Messrs. Tilden, Patterson & Co. of Columbia County, and the principal part thereof was manufactured into powder and delivered to the assistant commissary in Albany. But before the whole was delivered an unfortunate explosion destroyed part of the manufactory and with it some of the property belonging to the state. That accident has deprived the manufactures of the powder to complete the delivery of all the powder which the nitre would have produced, and I therefore, respectfully submit to your wisdom the propriety of directing an enquiry into the circumstances of the loss and of making such provision in the premises as will be just and equitable.

Since the last communication which was made to the legislature relative to the proceedings under the Act to provide for the defence of the northern and western frontiers, deposits, or arsenals have been erected in Onondaga; in Plattsburgh, Clinton County; and one in Elizabethtown, Essex County, has been

begun, but on account of the sickness and absence of the principal workmen, could not be finished the last season. In the course of the ensuing summer that will be completed, and deposits in Genesee and St. Lawrence Counties will also be erected, which will close the duties enjoined by the last mentioned act, and the law amendatory thereof, passed 24th February 1809.

The quantity of the land contemplated by the act relative to fortifications, passed the 3rd February 1809, has been purchased for Seven thousand and five hundred dollars, which, with thirty Dollars for the expense attending the purchase, has been paid, and the account therefor settled. The other proceedings which have taken place, since the last session of the legislature, and the measures which it is contemplated to pursue, are detailed in the report of the commissioners herewith submitted.

The annual report of the Commissary of military stores is also herewith communicated. It will shew that the state is now supplied with an adequate part of field artillery, fit for service; and that when the small arms now manufacturing are received, the supply of muskets and ammunition will be amply sufficient to equip as large a detachment of the militia of this state as will probably ever be called into service at one time. In support of the recommendation of the commissary for the erection of a powder magazine at some place near the city of Albany, I take the liberty of stating that the powder which has annually been distributed amongst the artillery companies of the eastern and western districts has generally been transported from New York to Albany and deposited in the arsenal here until called for. During the last summer a fire broke out in the vicinity of the arsenal which excited such alarm in the minds of the neighbor-

ing inhabitants, that I felt it my duty to order the powder to be immediately removed from the arsenal, and obtained permission to deposit it temporarily in the magazine situated in the public square. I have, however, been informed that apprehensions are already entertained about the danger to the city from that magazine, and it is not improbable that we shall be compelled shortly to remove the powder belonging to the state to some other place more remote from the city. Under these circumstances I concur in recommending an appropriation for building a magazine in some safe and convenient place, where the powder and ammunition to be distributed amongst the companies of artillery in the eastern and western districts, and to be used upon an emergency by the militia in the northern parts of the state, may be permanently and securely deposited.

Daniel D. Tompkins.

Albany March 11th, 1811.

DE WITT CLINTON ON THE PART OF THE FORTIFICATION COMMISSION
REPORTS ON THE PROGRESS OF FORT RICHMOND.

New York, February 26th, 1811.

Sir: We have the honor herewith to transmit to your Excellency, the account of our expenditure upon the fortifications at Staten Island, during the past year.

In discharging the trust reposed in us by your Excellency, we were governed by the sum, which the legislature had voted for the purposes of defence; and therefore selected such parts of the plan proposed by Col. Williams for the defence of the Narrows as the funds at our disposal would probably enable us to finish.

Since our last report to your excellency, we have not therefore under taken any new works, but have confined the expenditure to the completion of those which were at that time commenced.

The south eastern battery capable of mounting eighty-two cannon having been deemed by Col. Williams and the commissioners of every great importance, it has been thought advisable to finish it in the best manner; and the upper tier has been accordingly faced with a wall of solid masonry.

The parade ground of the upper and lower works of this battery have been finished, and foundations for the platforms have been also laid.

Two furnaces for heating shot have been built in Fort Richmond, and a substantial cover has been constructed along the interior of the wall of that work, as well for the protection of the men who may be stationed in the fort, as for securing the platforms and gun-carriages from injuries of the weather.

A wall extending about 600 feet has been also built to support the road communicating between the south eastern battery and Fort Richmond; this the sandy nature of the soil rendered indispensably necessary. The shore along the whole extent of the south eastern point has also been secured by storm against the encroachments of the sea.

As the price of timber during the last season was unusually high, we declined procuring the material for the platforms of the upper batteries; this we propose during the ensuing summer.

The different works will be then ready to receive the cannon, and it will remain with your excellency to direct their being mounted.

Impressed as we are with the importance of this pass to the security of our harbour, and to our country generally, we trust we shall not be deemed obtrusive in expressing the hope, that measures will be adopted for its compleat defence.

By order and in behalf of the commissioners of fortifications.

De Witt Clinton, Chairman.

His Excellency Danl. D. Tompkins.

A REPORT OF ALL AND SINGULAR THE WARLIKE STORES BELONGING TO
THE STATE OF NEW YORK, FEBY. 27TH, 1811.

FORT RICHMOND.

24 pieces of iron ordnance, caliber 24, mounted on old garrison carriage, with implements, 500 round shot for Do; 1 Gin and 1 Gin fall and block; 1 Debill carriage; 2 setts mens harness; 4 Brass 12 pounders, completely mounted on travelling carriages, with implements.

The above property is in good order, except the garrison carriages which are unfit for service; the garrison, with property completely under cover.

FORT COLUMBUS.

1 Iron six pounder.

BEDLOWS ISLAND.

1 Iron twenty four pounder.

ORDNANCE YARD NEW YORK.

40 pieces iron ordnance, caliber 32; 40 old garrison carriages for Do; 16 pieces, iron ordnance, caliber 24; 14 old garrison carriages for Do; 3570 round shot for Do; 4 pieces of iron ordnance,

caliber 18, lately reamed out; 4 new field carriages for Do; 520 round shot for Do.

The property in the ordnance yard, New York, as above, is unfit for service; except the 18 and 12 pounder, with their carriages, which are yet in the mechanics, but will be completed by spring.

OLD ARSENAL YARD, NEW YORK.

6 pieces iron ordnance, caliber 6.

ARSENAL, NEW YORK.

4 brass 12 pounders, completely mounted on travelling carriages, with implements, as in the return; 10 brass 9 pounders, completely mounted on travelling carriages, with implements Do; 3 brass 6 pounders, completely mounted on Do. with Do; 2, 10 Inch mortar in Do. Do; 1 travelling forge, complete, with pole harness; 1 brass provett; 150, 10 Inch shells; 60, 8 inch Do; 12 bouch barrels; 2 Boxes of Fusees; 1300 round shot for 9 pounders; 1600 Do. 6 Do; 8 Tumbrils; 2000 stand of new arms, lately from Whitney's factory; 716 Stand of other arms, Tower Hill; 200 Bayonet scabbards; 2032 setts new accoutrements; 1005 prickers for muskets; 2090 Worms for Do, 35,000 musket balls; 9 Coils slow match.

The above property in good order. It will be necessary to refit some of the muskets with accoutrements, flints &c.

MAGAZINE YARDS.

11,275 lbs of Gunpowder, including the quantity purchased last summer; 43,000 rounds of fixed ammunition for muskets, 20 to the lb; 108,000 rounds of do. for do. 18 to the pound.

Issued out of New York magazine since the 1st Feb. 1810 by Order, for practice, proving cannon, muskets &c:

2,400 lbs. powder, together with a quantity of round shot; 2,400 rounds of ball cartridges, delivered to the order of the mayor at the execution of two convicts.

ARSENAL, ALBANY.

1 Brass 3 pounder, completely mounted on travelling carriages, with implements; 1 do. 6 pounder, for park artillery; 1 brass 3 pounder, completely mounted for flying artillery; 2 do. 6 pounders, completely mounted for Do; 1 Travelling forge, with harness and apparatus complete; 4 Tumbrils: 1 Gin block and fall; 1873 muskets complete; 240 setts of accoutrements; 3 Coils slow match; 58 boxes fixed ammunition for muskets 16 to the lb; 2 do. do. broken; 1550 lbs. powder, including 83 Qr. Casks received last Winter of Mr. Tilden; 13 Boxes buck shot.

I have a receipt and order from the deputy for 1825 pounds powder issued out.

STORE AT ROME, COUNTY OF ONEIDA.

700 stands of arms; 500 setts of Accoutrements; 1500 Flints; 10,000 Fixed ammunition for Muskets; 1 Brass 3 pounder, completely mounted on travelling carriage, with implements, as in return; 2 brass 6 pounders, complete, as return; 60 round shot for 6 pounders; 6 qr. casks powder.

STORE AT WATERTOWN.

489 Stand of arms; 350 Setts of accoutrements; 1000 Flints, 7,500 rounds of fixed ammunition for muskets; 9 Quarter Casks of Powder; 100 round shots for 6 pounders; 1 brass 6 pounder, completely mounted on travelling carriage with implements; as return.

The warlike stores transmitted for the County of St. Lawrence, deposited (subject to storage) in Hooker's store, at Sackett's Harbour.

STORE AT ONONDAGA.

487 stand of arms; 300 setts of accoutrements; 1000 flints; 5000 rounds of fixed ammunition for muskets; 3 Quarter casks of Powder; 1014 Stand of arms; 588 Setts of Accoutrements; 15,000 rounds of fixed ammunition for muskets; 1500 flints; 7 Quarter Casks powder; 2 brass 6 pounders, complete, on travelling carriages, with implements; 314 round shot.

The above property in good order.

DEPOSIT AT BATAVIA.

500 stand of arms; 300 setts of accoutrements; 1000 Flints; 10,000 rounds of fixed ammunition for muskets; 6 Quarter Casks powder.

Property forwarded to the counties of

CLINTON & ESSEX.

2 brass 3 pounders complete, on travelling carriages with implements harness, &c. as return;

630 stand of arms; 480 setts of Accoutrements (Including those returned by Judge Moore.)

1000 Flints; 8000 rounds of fixed ammunition; 8 Quarter casks Powder; 100 round shot for 4 pounders; 300 Do. 3 Do.

The following property delivered the commandants of the different corps of artillery throughout the state.

1 brass 6 pounder, delivered Captain Duryea, of Queens County, completely mounted on travelling carriage, with implements and harness and fit for service.

2 Do. delivered Capt. Ferris, New York, as return

2 Brass 6 pounders delivered Capt. Buckmaster, New York;

2 do do do Capt. Horn do

2 do do do Capt. Brinkerhoff do

1 do and 1 brass 3 pounder, completely mounted for Flying artillery, delivered Capt. Bogart New York.

1 Brass 6 pounder delivered Capt. Lyon, Westchester;

1 do do Capt. Raymond do;

1 do do Capt. Rockland;

2 do do Capt. Ketcham, Poughkeepsie;

2 do do Capt. Hooly, Dutchess;

1 do do Capt. Ross, Newburgh;

2 do do Capt. Wigton, Hudson;

2 do do Capt. King, Lansingburgh;

1 do do Capt. Cooley, Willsborough;

1 do do Capt. Kingsby, Ballstown;

2 do do Capt. Mills, Albany;

1 do do Capt. Veeder, Montgomery;

1 do do Capt. Deitz, Schoharie;

2 do do Capt. Hamilton, Greene;

1 do do Capt. Flint, Delaware;

1 do do Capt. Brooks, Chenango;

1 do do Capt. Kirkland, Oneida;

2 do do Capt. Ellis, Madison;

1 do do Capt. Greaves, Ontario;

* 1 do do Capt. Tubbs, Courtland;

1 do do Capt. Camp, Hounsfield.

4 POUNDERS:

1 Brass 4 pounder delivered Capt. Hart, Canandaigua;

2 do do Capt. Beckwith, Greeneville;

1	Brass 4 pounder delivered	Capt. Greene, Plattsburgh;
1	do do	Capt. Hunn, Albany county;
1	do do	Capt. Sill, Whitesborough;
1	do do	Capt. McCall, Seneca;

3 POUNDERS:

1	Brass 3 pounder mounted for Flying Artillery, delivered	Capt. Sizer, Madison;
2	do complete, delivered	Capt. Jermain, Suffolk;
2	do complete, delivered	Capt. Barbarie, Kings;
2	do do	Capt. Vandenburg, Dutchess;
2	do do	Capt. Carpenter, Goshen;
1	do do	Capt. Davis, Hunting Grove;
1	do do	Capt. Ross, Newburgh;
2	do do	Capt. Brown, Pittstown;
1	do do	Capt. Osborn, Hoosack;
2	do do	Capt. Badger, Sandy Hill;
1	do do	Capt. Woodworth, Cambridge;
1	do do	Capt. McCracken, Salem;
2	do do	Capt. Patchen, Saratoga;
2	do do	Col. Teller, Schenectady;
2	do do	Col. Kennedy, Montgomery;
2	do do	Capt. Eisenlord, Palatine;
2	do do	Capt. Kellogg, Schoharie;
2	do do	Capt. Mason, Otsego;
1	do do	Capt. Beardsley, Delaware;
1	do do	Capt. Watkins, do
2	brass 3 pounders mounted for flying artillery, delivered	Capt. French, Herkimer;
2	do do	Capt. Turner, do;
1	do do	Capt. Sill, Whitesborough;

2 brass 3 pounders mounted for flying artillery, delivered Capt.

Petrie, Madison;

1 do do Capt. Sherwood, Onondaga;

1 do do Capt. Mulhollan do;

2 do do Capt. Chase, Springfield.

2 POUNDERS

1 brass 2 pounder delivered Capt. Davis, Hunting Grove;

1 do in the arsenal.

The above field ordnance, completely mounted and fit for service, when distributed to the respective corps.

This state having already, from time to time, made very liberal appropriations for military purposes, it is with some diffidence that I take the liberty of mentioning one other subject requiring attention, and which is not now provided for by law, namely, the erection of a powder magazine at some convenient place near the head of navigation of the Hudson. We have no deposit for Powder, except in the City of New York, and great embarrassments and trouble happen in my department for the want of a proper place to store powder and fixed ammunition, to be distributed to the artillery in the Eastern and Western districts, and to be used in frontier service, as emergency may require.

John McLean,

Com. of Mil. Stores.

GOVERNOR TOMPKINS ON THE QUESTION OF LAND FOR THE BROOKLYN

NAVY YARD TO MAYOR RADCLIFF OF NEW YORK.

Albany, March 16, 1810.

Sir: An application having been made to me through the Navy Department of the United States, for the cession & title

of the Jurisdiction of a *flat* or Bank in the Wallabout Bay, opposite the navy yard, near the City of New York, I have thought it my duty to call a meeting to be held at the Council Room, in the Capitol in the City of Albany, on the second day of April next, at eleven o'clock in the forenoon, of the Commisisoners designated in two certain acts of the Legislature of this State, the one entitled "An act to cede the Jurisdiction of certain lands in this State to the United States" passed 20 March, 1807. And the other entitled "An Act supplementary to An Act entitled An Act to cede the jurisdiction of certain lands in this State, to the United States" passed 20 March, 1807 "passed 13 March, 1808" of which Commissioners the Mayor of the City of New York, for the time being, is one.

The Honorable Jacob Radcliff, Mayor of the City of New York.

THE GOVERNOR REPELS AN ACCUSATION OF HENRY LOWTHER.

Albany, March 16, 1810.

Sir: Your letter of the 10th instant was received last evening. I am at a loss to know to what ill treatment whilst you were a citizen of New York, you allude in that letter. You also mention you have troubled me twice by letter on that subject, and have received no answer. I have no recollection of having heard from you since you left New York, nor did I know in what part of the State you resided, until the receipt of your letter of the 10th instant. As I keep a file of all letters on business, I have examined that file for two years back, and can find no communication from you on any subject. I have thought it proper to state these facts, to repel the insinuation that my standing or office, produce a forgetfulness of friends, or myself. I trust those who have been personally acquainted

with my conduct and treatment of citizens, in my present office, can inform you that it has made no alteration in my disposition, manners, or habits, and with those you were formerly in 1800, 1801, 1802 & 1803 tolerably well acquainted.

Mr. Henry Lowther.

THE GOVERNOR EXCULPATES GENERAL VAN WYCK FROM A DISAGREE-
ABLE CHARGE.

Albany, March 21, 1810.

Dear Sir: I have no recollection of informing any person that General Van Wyck represented Mr. Jackson to me, as a Federalist; nor have I any recollection that Genl. Van Wyck did make such representation. You may perhaps remember, that I expressed a reluctance to depart from his recommendation for Brigade Quarter Master, stating at the same time, that from my short acquaintance with General Van Wyck, I entertained a very high respect for him as a gentleman.

Now I admit, that before I had the interview with you, I had the impression of Mr. Jackson's being a moderate Federalist, but to the best of my recollection that impression arose, not from Genl. Van Wyck but from written representations of some Republicans in Fishkill, (which were then and still are on the files of the Council of Appointment). The first was signed by yourself and others, advising the Council not to reappoint Messrs. Hughson, Budd or Jackson. The second by Theo's R. Van Wyck, Theod's W. Van Wyck and Abm. P. Rapalje, Esqrs. (who also signed the first) requesting the reappointment of Mr. Jackson, but not Messrs. Hughson and Budd. One of those papers stated that those three gentlemen were appointed the winter before, against the wishes of the *Republicans of the town*.

From the first of these communications, I naturally concluded, Mr. Jackson was deemed a Federalist, because no other cause for removal was alledged, except their having been appointed against the wish of the Republicans; and from the second, I inferred, that he was a moderate and respectable Federalist in as much as several Republicans advised his reappointment. Under that impression I think I asked you and Mr. Bloom, whether he was not a moderate Federalist; and upon your answering in the negative, assigned the above circumstances as my reason for asking the question.

It would be indelicate in me to insist that my recollection in this business is more accurate than Mr. Bloom's, but I can only say, that I do not recollect or admit that I ever quoted Genl. Van Wyck as my authority for enquiring whether Mr. Jackson was or was not a Federalist; and it is but Justice to the Genl. for me to say, that if I did, it must have arisen from some misrecollection or misunderstanding of the source of my impression, for as I cannot now recollect, that Genl. Van Wyck ever did give me such information, it would be dishonorable in me to charge him with it, and you are at liberty to shew him this letter, or such parts of it as you may think proper, as evidence of my acquitting him of that imputation, and to assure him that I never entertained the remotest idea of his having misrepresented any circumstance whatever, to me, and never entertained towards him any other sentiments than those of friendship and respect.

I shall be happy if this explanation should be satisfactory to you, and to General Van Wyck.

To Derick A. Brinkerhoff, Esqr.*

*Derick A. Brinkerhoff, of Dutchess County, Member of Assembly, 1809; Sheriff February 4, 1812 to March 19, 1813.

MORE TERRITORY ACQUIRED AT THE NARROWS FOR THE FORTS.

Albany, March 23, 1810.

Sir: The Legislature of this State have passed a Concurrent resolution of which a copy is enclosed.

The eligibility of the position at the Narrows, for the Military Academy of the United States, occurred to me last Summer, and was mentioned to you. Since that period I had the honor of informing you by letter, of the purchase of this State of the dwelling-house of Mr. Stillwell, the barn and about twenty four acres of land lying along the westerly bounds of our former possession. This purchase extends our line on the shore of the Bay westerly from the southerly point of land and extinguishes the twenty links in width along the shore of the Narrows, formerly reserved by the proprietor and enlarges the establishment to fifty acres and upwards. There are on the premises, a two story dwelling occupied by Mr. Stillwell; a barn in the rear, the dwelling house occupied by the Keeper of the observatory, a small barn and workshop connected with it; and the small dwelling house on the shore of the Narrows, a few rods north of the barracks. Those buildings are connected with the purchase of the land, and their value is not included in the expenditures for fortifications, under the appropriation of one hundred thousand dollars. It is impossible for me to give you an accurate estimate of the real value of that part of the establishment, but I believe it would sell to individuals for a large Sum. That part of the appropriation which has already been laid out, amounts to fifty six thousand dollars. Your own observation and the information of Colonel Williams to whom I beg leave to refer, render it unnecessary for me to say any-

thing in relation to the propriety of our plan, or the prudence and œconomy with which the works have been constructed. With these remarks, I beg leave to enquire whether there exists a disposition on the part of the general Government, to obtain a cession of the land, wharf, buildings and fortifications on the Staten Island side and on the bed of the Narrows at Hendrick's Reef, on the Long Island side, and if so what terms would be deemed reasonable?

You will perceive that no final arrangements can be made without the sanction of the Legislature, and as they will adjourn before the tenth of April, unless their sanction will be obtained before the close of the present session, no bargain can be definitely made until the ensuing winter.

The Honbl. Wm. Eustis.

IN REGARD TO THE ACQUISITION OF LAND FOR THE BROOKLYN NAVY
YARD.

Albany, March 23, 1810.

Sir: I was lately honored with your Letter of the 30th January relative to a cession for the use of the Navy Department of a certain flat or Bank in the Wallabout Bay. By two certain acts of the Legislature of this State, five officers are vested with power to cede the title and jurisdiction of any lands on York Island, Long Island or Staten Island, or under water, which in their opinion will Contribute to the defence and safety of the port of New York. Upon the arrival of Captain Chauncey in this place, the Chancellor, Chief Justice, and myself had an interview upon the subject, and concluded that the cession requested would be proper. But as it was deemed essential to notify all the

Commissioners, one of whom is in New York, and as the acts above mentioned require us to describe the property ceded, by more specific meets and bounds than the papers then before us furnished, it was deemed advisable to call a meeting of all the Commissioners on the second of April next, and in the mean time, Captain Chauncey will procure and forward to me the necessary surveys, to enable us to comply with the requisition of the laws under which we act. I presume there will be no obstacle at this time, to a compliance with your request. Deeds of Cession will doubtless be prepared and executed as soon after that time as may be practicable.

The Honbl. Paul Hamilton.

THE LEGISLATURE PROROGUED—GOVERNOR TOMPKINS RESORTS TO A
RADICAL PREROGATIVE TO SAVE THE STATE FROM SCANDAL.

Gentlemen: The constitution of this state has vested in the Governor thereof a discretion to prorogue the Assembly and Senate, from time to time, provided such prorogations shall not exceed sixty days in the space of any one year. It was doubtless intended by the wise and patriotic framers of that sacred instrument, that this power should be exercised on all occasions when, in the opinion of the executive, the public good will be promoted by it.

I entertain a perfect conviction that the exercise of the above mentioned prerogative, at the present time, is not only a sacred and indispensable duty which I owe to the community, but that it will have a tendency to awaken enquiry, and to produce a degree of information which, under existing circumstances, can-

not fail to be useful and important in deciding, ultimately, upon some of the most important measures now pending before the Legislature.

I am not unmindful of the magnitude and responsibility of the duty discharged by this message; and, therefore, beg leave to assign some of the prominent reasons which have impelled me to its performance.

You are apprized Gentlemen, that some years since it was ascertained, beyond any reasonable doubt, that corrupt inducements were held out to members of the Legislature in order to obtain their votes in favor of an incorporation of a banking institution in the city of New York; and the very strong and general suspicion, that the emoluments tendered there, in certain instances, accepted, inflicted a deep wound upon the honor of the state and upon the purity and independence of legislation.

At the last session of the Legislature, an act was passed incorporating the late Jersey bank; and altho there has been as yet no judicial investigation as to the alledged improper means made use of to obtain that act, there is a very general public opinion, that unwarrantable attempts were resorted to on that occasion to influence unduly, the, then members of the Legislature.

With respect to the bill for the incorporation of another bank in the city of New York, by the name of the bank of America, now before the Senate, many, and forcible objections, exist against it; and I cherished the hope that the considerations which I had the honor to suggest to the Legislature at the commencement of the present session, would have had their due influence. In corroboration of those considerations, I avail myself of this occasion to remark, that the bill now before Senate, establishes, in the City of New York, a bank with a

capital of six millions of dollars; that five millions thereof may be subscribed by the stockholders of the late bank of the United bank, without any provision which gives a preference to the citizens of the United States; and thus foreign stockholders may be admitted, in the discretion of the directors, to monopolize the stock, and consequent controul, of the intended bank, and thereby acquire a dangerous influence in the monied operations and other important concerns of the state.

The banking capital in the city of New York now exceeds nine millions of dollars. This capital, in the most flourishing state of our commerce, has been found adequate to commercial purposes. The United States, we have much reason to apprehend, are on the verge of a war with Great Britain, in defense of our rights, our national honor, and our independence; and commerce is consequently nearly suspended. Can it be wise, then, to increase our banking capital in an unprecedented manner, at a time when we have only a very limited and restricted commerce left? Can it be prudent or safe, at such a time, to employ British capital, and subject ourselves to its deleterious influence in thwarting the operations of our own government, in a just and necessary war with Great Britain? It appears to me that it would be unwise and impolitic.

When I contemplate the erection of a new bank in the city of New York with so enormous and unusual a capital; when I perceive the resuscitation within this state of half the whole capital of the late United States bank; and when I view the power which that bank is to concentrate in the hands of a few individuals, I cannot but feel the most lively apprehensions for the safety of all other banking institutions, and of our most inestimable institutions.

But these considerations become less important when compared with others, to which it is my painful duty here to advert.

It appears, by the Journals of the Assembly, that attempts have been made to corrupt, by bribes, four members of that body, to vote for the passage of the bill to incorporate the aforesaid bank; and it also appears by the journals of the Senate, that an improper attempt has been made to influence one of the Senators to vote for the said bill. Far be it from me to insinuate that improper considerations have induced any member of the Legislature to vote for the said bill; yet should its final passage now take place, before the persons implicated in holding out the before mentioned inducements shall have been judicially tried, and without consulting the feelings and opinion of the community at large upon the subject, public sentiment will, I fear, however unjustly, attribute its passage, in some degree, to the influence of such inducements.

Under such persuasion, I entertain the most fearful apprehensions that the confidence of the people in the purity and independence of legislation will be fatally impaired; our representative system, which has been devised for us by our sages and wisest jurists as a safeguard for our security, our property, and our liberty ultimately destroyed; and this great and populous state lose her just importance and influence in the destinies of the United States.

It gives me sincere anxiety and pain to reflect that many individual inconveniences will result from a prorogation of the legislature at this time, yet these inconveniences do not compare with the public considerations which induce this measure.

Solemnly impressed with the importance of the preceding considerations, and feeling that the morals, the honor and the dig-

nity of the state require it—and in order that time may be afforded for reflection, and for the complete ascertainment of public sentiment upon a measure fraught with such important consequences, I have deemed it proper to prorogue, and I do hereby prorogue the Assembly and Senate until the twenty first day of May next, then to meet in the Capitol, in the City of Albany.

Given under my hand and the privy seal of the State of
New York, at the city of Albany, this twenty seventh
day of March, in the year of our Lord, one thousand
eight hundred and twelve.

Daniel D. Tompkins.

By Order of the Governor

John McLean, Junr. Private Secretary.

THE GOVERNOR TO PETER SAILLY CONCERNING THE COMPLICATED
DISBURSING ACCOUNTS.

Albany, March 29, 1810.

D'r Sir: The enclosure in your letter of March 13th received last evening, mortified and astonished me. From those Letters, unexplained, it might be inferred that I had already been furnished with forms, and also money, to pay the subsistence accounts to which you refer, than which, nothing is more unfounded; and had Mr. Brent referred to my account and vouchers which were on file in the war office, upwards of a year since, and are there still, he would at once have seen his mistake in intimating that the remittance made to me had any reference to the subsistence account of the officers.

When the detachment of Champlain District was ordered out, the Pay Master General offered to make me a remittance in

advance, to meet the expenses of it, but as I preferred being a creditor rather than a Debtor, the offer was declined, and he was informed that I would pay the Bills myself, and after they were Collected, would render the account and vouchers therefor, and should then expect to be refunded. Accordingly, advances were made by me to Mr. Rodman, and others, until all was paid except the subsistence account of the officers, which I supposed would be settled by themselves, either with the Collector or at the war office, or that they had been supplied with rations by the Contractor.

Believing the accounts closed, therefore, as far as I was concerned, with their settlement, I made and transmitted to the Secretary of War my account and vouchers. The amount due me in that account you will see from the copy enclosed was \$1834.23½ and contained no charge for, or reference to subsistence, or rations. This account after some time was noticed by the paymaster in the letter marked No. 1. Some of the items were rejected upon grounds which I deemed untenable, and others were suspended for further consideration, or referred to the accountant. After having been requested by the President, the Secretary of the Treasury and the Secretary of War, to take the trouble and responsibility of this detachment (the details of which were by the President submitted to my discretion) after having advanced the \$1834.23½ dollars for the United States, and sent them the best vouchers I could obtain and which were ample, with one exception, to satisfy any person, that I had advanced and paid the amount specified in the account, and as I neither charged them interest, commission, postage or any expense or labor of my own, you may naturally conclude that finding my account disposed of in the manner specified in Mr.

Brent's Letter No. 1 was not very agreeable or satisfactory. It is true, as he says in his Letter, that I have not forwarded any further vouchers on that subject, nor can I, unless I send to your country and hunt up the individual soldiers of the Detachment, at an expense nearly equal to the sums already paid. I must, therefore, wait for a final settlement of my account, until I can go to Washington and have a personal interview and explanation with the officers of the war department. Now, Sir, the only sum I ever received in relation to the Champlain detachment from Mr. Brent or any other person was the \$1800 dollars mentioned in his Letter No. 1; and that remittance was made expressly, to replace in my hands, the amount of the advances I had already made, which advances were specified in an account and vouchers therefor, rendered and filed in the War Department, and had nothing to do with the subsistence accounts, or with future advances. This would have been discovered by Mr. Brent had he looked at those papers.

I have been compelled to trouble you with this long history in justice to myself, and to show that there is some reason to feel chagrined about my accounts, especially as no information or forms were ever previously furnished by the war department; and moreover this is the second instance in which Mr. Brent has *mistakenly* referred citizens of this State to me for payment, as if I had received money for them, when I had not as you will see by his letter of apology No. 2, enclosed. It is not my disposition to retain monies which belong to, or have been remitted on account of other persons; and I never supposed the \$1800 dollars was otherwise intended than a payment to me on a/c of the balance of \$1834.23½ then due to me.

I will now, Sir, proceed to the affair of the subsistence papers. I doubtless must have made a mistake in construing your letter enclosing them. But certain it is, I had an impression, that as he was mentioned as the person who had previously sent them on, they were to be delivered to Mr. Rodman. I accordingly did deliver them to him immediately, with a request that he would forthwith attend to them, which he promised to do. Afterwards upon the receipt of yours of the 29th October I enquired of him whether he had attended to those papers, and understood from him that he had. Since the receipt of your letter of the 13th inst. it was ascertained that those letters were still in his possession, but he now informs me that he sent them on and they were returned with an intimation that they must come through me; accordingly this day I have called for and obtained them, and will now hold myself responsible for their being transmitted. In the mean time, altho' you will see by the documents herewith transmitted, I am not supplied with funds equal to the amount already paid out by me in 1808, yet I cannot endure that the officers should any longer lay out of their just demands, and for that reason I herein transmit to you a check for the amount of your storage and of the subsistence accounts—viz—

Mr. Saily's account for storage—————	\$15.
Capt. Delevan Delance's subsistence acct.——	40.80
Capt. John Stephenson's Do. Do. ——	37.20
Lieut. Benjamin Reynolds Do. Do. ——	12.40
Lieut. Samuel Browns Do. Do. ——	14.40
Ensign Whitney Russells Do. Do. ——	13.60
Ensign John Baker Do. Do. ——	12.40
<hr/>	
Amt. of check inclosed—————	\$145.80
<hr/>	

By the mail of tomorrow, I shall send the papers to the Pay Master, and will explain to him the mistake he has made in the intimation to Mr. Tracy, that the remittance to me was intended for, or had any reference to the payment of the amount due the officers for subsistence, or to your account for storage.

I feel ashamed, that you, my dear Sir, have had so much trouble and vexation in this business, but the only thing I reproach myself with having contributed to it, is my inattention in handing over the papers to Mr. Rodman under a misconstruction of your Letter of the 21st July last, and without examining them.

I understood from Judge Smith that the arsenal could not be finished last fall for the want of brick. Should you require any further remittances on that account, be pleased to let me know it before the first day of May, and point out the mode of conveyance. If my checks on the State Bank payable to your order, can be converted into money, at Plattsburgh, that mode will subject us to the least hazard.

The Honble. Peter Saily.

TO DR. DAVID HOSACK—RELATING TO THE LAND BOARD.

Albany, April 18, 1810.

D'r Sir: Yours of the 14th was duly received. Altho' the Governor is nominally a member of the Board of Commissioners, yet a law was passed in 1803 dispensing with his attendance on that board, since which time he has never been notified of or attending any meeting. I mention this by way of excusing myself from any responsibility, for the delay which has taken place, and which is likely to take place in your business. If any other apology were necessary for me your own recollection would fur-

nish it. You know when you applied to me to convene an extra Council of Revision the most cogent reason assigned was, that the Commissioners of the Land office met the ensuing day, and you were anxious to have the law passed before they met, in order that you might arrange with them at that meeting the measures to be taken on their part. I, therefore, took it for granted until the receipt of your letter, that the Commissioners had been applied to and had made the requisite appointment of appraisers, &c.

On the day your Letter came to hand I wrote to the Secretary of State desiring him to call the attention of the land-office board to its contents. His answer is enclosed from which I am sorry to learn, that on account of the absence of the Surveyor General, it is not probable that your request can be complied with, until the early part of June next.

Permit me to take this opportunity of acknowledging the receipt of a view of the Botanic Garden, at Elgin, and with an assurance of my respect and esteem to tender you my thanks for this mark of your friendship and regard.

Dr. David Hosack.*

*David Hosack, scientist, b. in New York city, 31 Aug., 1769; d. there, 22 Dec. 1835. His father was a Scotch artillery officer, who served at the capture of Louisburg in 1758. David was graduated at Princeton in 1789, and received his medical degree in the College of Philadelphia in 1791. He then removed to Alexandria, Va., practised there a year, and in 1792 went to England and Scotland for study. In 1794 he returned to New York with the first collection of minerals that had been introduced into this country, and the duplicate collection of plants from the herbarium of Linnaeus, which now constitutes a part of the museum of the Lyceum of natural history of New York. He was appointed professor of natural history in Columbia College in 1795 and became the partner of its first president, Dr. Samuel Bard, succeeding Dr. William Pitt Smith in the chair of *materia medica* in 1797, and combining its duties with that of botany. In 1807 he became professor of midwifery and surgery in the College of physician and surgeons, afterward occupying the chairs of the theory and practice of medicine and obstetrics and the diseases of women and children until 1826, when, with Dr. Valentine Mott, Dr. John W. Francis, and others, he organized the medical department of Rutgers college, which was closed in 1830. At different periods he was physician to the New York hospital and the Bloomingdale asylum. He was one of the founders and the first president of the New York Historical Society in 1820-8, president of the Horticultural, the Literary, and the Philosophical societies, and established the Elgin botanical garden. He edited, with his friend and pupil,

THE GOVERNOR ADVISES GEORGE M'CLURE TO WITHDRAW HIS
RESIGNATION.

Albany, April 25, 1810.

D'r Sir: Yours of the 10th inst. has been duly received. It is not in my power to accept the resignation of a Judge; the Council alone are competent to such acceptance and to fill the vacancy.

They did not remove you as you anticipated, nor did I receive your letter until after their adjournment; and whether you officiate or not until the next meeting of the Council, I would advise you to withdraw the resignation already sent me.† You can act as you may be advised, as to serving in the mean time, but the result of the election being ascertained, I shall not lay your resignation before the Council next winter, unless I am positively directed by you so to do, after receiving this information, and I hope you will not now give such direction.

George McClure, Esqr.

HENRY LOWTHER SEVERELY AND UNJUSTLY TREATED.

Albany, May 7, 1810.

D'r Sir: Yours of the 14th & 19th of April were both received on the same day. I am inclined to think that your treatment in

Dr. John W. Francis, the "American Medical and Philosophical Monthly" in 1810-14. Dr. Hosack made a special study of yellow fever, having himself suffered from the disease, and his report on its character is one of the best that has ever been published. His paper on "Contagious Disorders" and his treatise on "Vision" were republished by the Royal society of London (1794). His "Hortus Elginensis," a scientific catalogue of his own collection of plants, is a valuable contribution to botany. He was the first surgeon in this country to tie the femoral artery at the upper third of the thigh, and introduced as early as 1795 the operation for hydrocele by injection. He published, besides many medical and scientific papers, "Memoir of Hugh Williamson, M. D." (New York, 1820); "Essays on various subjects of Medical Science" (1824-30); "System of Practical Nosology" (1829); "Memoirs of De Witt Clinton" (1829); and "Lectures on the Theory and Practice of Medicine," edited by Henry W. Ducachet (New York, 1838). Dr. Hosack attended the duel between Hamilton and Burr and it was in his arms that Hamilton fell after the fatal shot was fired.—STATE HISTORIAN.

† The resignation was not pressed.—STATE HISTORIAN.

New York was severe and unjust, but did not warrant the determination which you thereupon rashly formed. There is no power vested in the executive to dispense with the performance of military duty, but if there be any vacancy in the Regiment in which you reside, for a staff or line officer, to which you can with propriety be appointed it will give me pleasure to promote your appointment to it. You will then be relieved from military duty as a private. If you will drop me a line upon this subject it shall be attended to; and I cannot at present see any other mode by which your object can be answered.

Mr. Henry Lowther.*

THE GOVERNOR AND AN ADVERSE COUNCIL OF APPOINTMENT—HE
REFUSES TO CALL A MEETING.

Albany, June 14, 1810.

Gentlemen: I am instructed by his Excellency, the Governor, to notify you that he will not call or attend a meeting of the Council of Appointment on the third day of July next; that he has uniformly deemed the attempt of three members of the Council, to control the executive authority, by dictating the time and place of convening them, and that too in his presence, and with his express dissent, and without any real or ostensible necessity for such meeting, an unprecedented assumption of those powers which the constitution and laws, and invariable usage have vested in the executive alone. I am also directed, further, to inform you that the Governor is not at present advised of any important business, civil or military, which would

* Henry Lowther was appointed an ensign of a detached company in the Thirteenth Regiment, Militia, 2 September, 1812.

justify him in subjecting the state to the expense of an extraordinary session of the Council and that whenever a necessity therefor does in his opinion exist he will direct a meeting and cause the several members to be seasonably summoned.

I am, gentlemen, respectfully Your obt. st.

Aaron Clark, Private Secretary to the Governor.

The Honble Israel Carll [Suffolk County], Robert Williams [Dutchess County], Amos Hall [Ontario County], and Daniel Paris [Montgomery County].

One copy of the above letter, on the date thereof, sent to the above named Council of Appointment—Also one forwarded to Moses Atwater, for Mr. Hall.

THE GOVERNOR OFFERS TO MAKE AN EXCHANGE OF ORDNANCE WITH
THE SECRETARY OF THE NAVY.

New York, 16 Octbr., 1810.

Sir: I have recently been informed that some brass six pounders on board the Brig Enterprise, now lying in the Harbor, will in all probability be exchanged for an equipment of Carronades. Should that be the case, and you be willing either to dispose of the brass sixes, or to receive in lieu of them a supply of Carro-nades of equal value, I shall be happy to have an opportunity of adding the six pounders to the park of Artillery belonging to this State.

The Honbl. Paul Hamilton.

THE GOVERNOR GIVES AN INKLING OF THE DIFFERENCES BETWEEN
HIM AND THE COUNCIL OF APPOINTMENT.

New York, October 26, 1810.

D'r Sir: Your letter of the 15th Instant was received yesterday. I declined accepting a resignation of Colonel Hewit sent me two or three years ago for reasons which it is unnecessary now to state. At the last session of the Council, I was requested by a majority of the members, to hand over the military papers to the Adjutant General, and the appointments were pretty generally made according to his suggestion. As I was seldom consulted, it is impossible for me to give information respecting any military papers or appointments of last winter. I have, however, a slight recollection of having seen a resignation of Col. Hewit, which assigned reasons, sufficient to justify its acceptance, but what disposition was made of it, I am unable to say.

It will, therefore, be best for Col. Hewit, to subscribe another resignation, which you can approve and transmit with your next annual return. You may calculate upon its being accepted by me, and your return may, therefore, contain the names to fill the vacancies occasioned by the resignation of Col. Hewit.

Genl. John Tillotson.

THE GOVERNOR INFORMS COLONEL WILLIAMS OF THE DISPOSITION OF
NEW YORK TO COOPERATE WITH THE FEDERAL GOVERNMENT
IN THE ACQUISITION OF LANDS FOR HARBOR FORTIFICATIONS IN
NEW YORK.

New York, Nov. 12, 1810.

Sir: Your communication of the 21st September, has been this day submitted to the Commissioners appointed by certain

acts of the Legislature of the State of New York, passed 20th March, 1807, and 18th March 1808.* Your questions are repeated below and the answers which I am authorised to give are subjoined thereto.

Ques. 1. "Are the Commissioners now willing to make a cession in the manner required of the ground owned by the State on the East side of Staten Island, including the tract lately purchased?"

Ques. 2d. "What are the conditions they think proper to attach to that cession, respecting the works lately erected on the premises?"

In answer to the preceding enquiries, I am instructed by the Commissioners to inform you, that they are ready and willing to confirm to the United States, the title and jurisdiction of all the

New York, Sep. 21, 1810.

*Sir, Perceiving by the acts of Assembly of the 20th of March 1807 and 18 of March 1808 that the Commissioners therein nominated have power to cede to the U. States the occupancy and jurisdiction of any lands belonging to the state of New York on Staten Island or under water between Staten & Long Islands which the purposes of defence may require; and recollecting the liberal sentiments expressed by the Commissioners when I had the honor of meeting them on the subject of other cessions I am induced to ask the favor of an answer to the following questions in such form as may enable me to lay the subject before the Secy. of War in an authentic manner.

1. Are the Commissioners now willing to make a cession in the manner described by law of the ground owned by the state on the East side of Staten Island including the tract lately purchased?

2. What are the conditions they think proper to attach to that cession respecting the works lately erected on the premises?

3. Are they willing & if so have they the power to make the cession without requiring a reimbursement of the cost of those works provided an equal sum be expended in the erection and endowment of a Military Academy on any part of the aforesaid tract?

4. Are the Commissioners willing to cede to the U. States the ground under water which may be occupied for defence between the shores of Staten and Long Islands as described by the Law?

As it is not easy to foresee all the bearings that these questions may have in the minds of the Commissioners I shall be highly obliged if you will have the goodness to make to them a full detail of any matter connected with this subject which may occur to you and may have escaped my attention in forming the foregoing questions.

I beg you to pardon the freedom with which I have presumed to present this subject to you and believe me to be with the utmost deference and respect

Sir, Your Obedt. Servant,

Jona. Williams.

His Excellency Govr. Tompkins.

land owned by the State of New York, on the Southeasterly point of Staten Island, including the late purchase, without any other consideration therefor, than the reimbursement to the State of the monies actually expended in erecting fortifications thereon. It is to be understood that the prices given for the land, dwelling houses, barns, and other improvements thereon, at the time of the respective purchases, will not be considered as part of the sum expended in fortifications.

Ques. 3d. “Are they willing, and if so, have they the power to “make the cession without requiring a reimbursement of the “costs of those works, provided an equal sum be expended in “the erection and endowment of a military academy, on any part “of the aforesaid tract?”

Answer—They are of opinion that since the cession of the title and Jurisdiction of the lands in question was not required by the President of the United States, for works of defence, at the time other tracts were required and ceded for that purpose, and in as much as the Agents of the State, under an impression, that those lands would not, therefore, be wanted by the United States for that purpose, have since the passing of the before mentioned acts, and pursuant to Legislative authority, expended a considerable sum in erecting works of defence there, it would not be discreet in the Commissioners, without further Legislative provision, to consent to cede the title or Jurisdiction of the premises, upon any other terms or conditions than the re-imbursement of the sum so expended. I, however, think it extremely probable, that the Legislature will feel disposed to authorize a cession upon very liberal terms, upon the condition of having a Military Academy established there, and suitably endowed.

Ques. 4th. "Are the Commissioners willing to cede to the United States the ground under water, which may be occupied for defence, between the shores of Staten Island and Long Island, as directed by the Law?"

Answer—They are ready and willing to cede to the United States in the usual manner, and without any consideration therefor, the title and jurisdiction of any land under water upon Hendrick's Reef, or at any other place between the shores of Staten and Long Island, which may be required for works of defence.

Col'n Jonathan Williams.

THE GOVERNOR ATTEMPTS TO ADJUST DIFFERENCES BETWEEN JUDGE
NICHOLAS AND ELIJAH MILLER.

New York, Novr. 16, 1810.

Sir: I this day received a letter from Elijah Miller, Esqr. covering yours of the 24th September last, which informed him of your inability to attend the October meeting of the Commissioners, named in the Act relative to the Salt Springs. He informs me that such a difference of opinion exists between Mr. Clark and himself, as will prevent a decision upon the subject of their appointment and suggests the propriety of my regarding your letter to him as a resignation, and of appointing a gentleman whom he names in your stead. I have declined a compliance with his request as you will see, by the enclosed copy of my answer, until I hear from you. In the mean time it is my earnest desire, that you will endeavor to attend the meeting on the first Tuesday in December and relieve me from the necessity of supplying your place, which I cannot do at present, with a per-

son so free from an objection as yourself, for an umpire between Mr. Clark and Mr. Miller in that important business.

The Honble John Nicholas.*

DIFFERENCE OF OPINION BETWEEN THE ONONDAGA SALT SPRINGS
COMMISSIONERS.

New York, Novr. 19, 1810.

Sir: Your letter† of the 26th ultimo enclosing Mr. Nicholas' note of the 24th of September, has been duly received. I do not consider the note of Mr. Nicholas, sufficient to justify me in appointing a commissioner in his stead. It is addressed to you, and contains the reasons for his not being able to attend a meet-

*John Nicholas, judge of the Court of Common Pleas of Ontario county, Jan. 27, 1803-March 13, 1819.

†Auburn, 26th October, 1810.

Sir: I take the liberty of informing your Excellency that Mr. Clark & myself have attended two weeks as Commissioners under the "act concerning the Onondaga Salt Springs" passed 5th April 1810 in investigating titles given by the different Superintendants of the Salt Springs; after taking the Testimony produced by a part of the claimants we adjourned to meet on the first Tuesday of December next. Mr. Nicholas did not attend with us but declines acting as appears by the enclosed letter from him to me on the subject—I apprehend such a difference of opinion exists between Mr. Clark and myself respecting the validity and duration of a large portion of the leases given by different Superintendants that we cannot agree in making any decision on them. Permit me therefore to suggest the expediency of your Excellency's appointing some other person to fill the place of Mr. Nicholas.

Joseph L. Richardson Esquire of this County if appointed by your Excellency has consented to attend with Mr. Clarke & myself to the business until the subject contemplated by the Legislature in appointing Commissioners is completed.

I am with respect, Your Excellency's Ob. Servt.

Elijah Miller.

His Excellency D. D. Tompkins, Esqr.

Sir: I fear it will be impossible for me to attend at Salina according to appointment and am very fearful that some inconvenience may arise to the gentlemen with whom I am associated or to the people who have unsettled claims—This will not happen if you & Mr. Clark can both attend.

I have sold my house and engaged to move out of it by the middle of October by which I enlarged my concerns (before sufficiently burdensome) so much that it is almost impossible I should be away at the time the Commissioners are to sit—I extremely regret that I had not declined the appointment in time for my place to be filled and would willingly do it now if that would lessen the difficulty.

I am very respectfully Yr. Ob. St.

John Nicholas.

Sept. 24, 1810.

ing of the Commissioners at a particular time, now past. The circumstances which are there stated as obstacles to his attending that meeting may not, and I trust will not, prevent his attendance in December next. I have, however, addressed a letter to him upon the subject, and shall waite his answer.

Elijah Miller, Esqr.

THE GOVERNOR TO NATHAN WILLIAMS REGARDING THE ONEIDA
INDIANS.

Albany, 26 Nov., 1810.

Dear Sir: The box of books which Mr. Clark transmitted to you, was left at my house in the winter of 1809 by some Oneidas on their return from Washington. They said they were going from this to Oneida on foot, and desired me to retain the box until the Agent went up to pay the annuity. In the mean time my family, in cleaning house, or in some other arrangement, put the box away where I did not find it until preparing to move to New York the last summer. No directions were given about the manner of distributing them. I think young Adam Shenandoah, was one of the party, and if delivered to him, my duty will have been complied with. I do not know whether Adam is the proper Christian name for the head Indian of the party. He was a young slender Indian, talks English very well, and is the elected successor of old Shenandoah or *Crown Prince* of the Oneidas. If you know the Indian from this description, I will thank you to cause the box to be sent, or delivered to him.

I will here mention as an apology for not having answered several of your letters, relative to the affairs of the Indians, that they involved legal questions, and that I, therefore, imme-

diately delivered them to Mr. Van Vechten, the Attorney General, who promised to deliberate upon them, and give his opinion and instructions about the requisite proceedings direct to you, without communicating through me.

As to the papers you enclosed to me under date of November 8th, I must make the same answer that I have heretofore made them, in writing upon a similar application, "that we shall pay the whole annuity punctually, to the Indians themselves, as the law directs; and that every individual who trusts them must do it upon the faith of the Indians themselves to pay when they receive their annuity." This answer the Conclave of 70 or 80 with Shenandoah at their head, approved and highly applauded, at a talk which we had with them in this city, in 1807-8. You may, therefore, inform them that their request will not be complied with.

The Hon'ble Nathan Williams.

CONCERNING ARSENALS AND DISBURSEMENTS.

Albany, 27 Nov., 1810.

Dear Sir: The commencement of a new deposit this fall, will require an advance of money and that advance will be expended and unaccounted for until spring which will prevent me from settling my account with the Comptroller, under the frontier act, which I am determined to do before the meeting of the Legislature; for which reason, and the lateness of the season, I am of opinion the Arsenal at Batavia had better be postponed until spring. The accoutrements for small arms can soon be made, but there is another reason for omitting that, for the present, which is, that the Treasury is scant, and the Comptroller

does not wish that we should increase the expenditures at present, lest they may not be able to answer the various calls upon it.

As to preparations for racking the second story of the arsenal, it is proper that it should be attended to as soon as you think it necessary and proper, and you will of course give the necessary orders for white pine or other timber, and materials which may be wanted for that purpose.

I will thank you to write to Mr. Watson, urging him to make up and transmit to me his accounts, both for the Watertown and Onondaga arsenals, as early as possible, and direct the accounts and vouchers relative to the house by the New York arsenal, to be transmitted to me immediately.

John McLean, Esqr.

THE GOVERNOR TO MORGAN LEWIS ON THE POWER OF THE SENATE
TO ELECT A PRESIDENT PRO TEM.

Albany, 30 Nov., 1810.

Sir: Although when your letter of August last was received, I had a strong impression that the words of the Constitution expressly provide for choosing a President of the Senate pro tem. upon the death of a Lieutenant Governor,* yet I was not so confident as to disregard your suggestion of consulting the law officer upon the point. Since the receipt of your last letter, the Attorney General has furnished me with his opinion upon the case in which he says "with respect to the right of the Senate to "select a President, pro hac vice, in consequence of the death of

* John Broome, lieutenant-governor, died August, 1810. January 29, 1811, the Senate elected John Tayler president of the Senate.

“the Lieutenant Governor, I have no doubt the words of the Constitution according to their fair, reasonable, and necessary interpretation give that right beyond all question.”

It appears to me to be impossible for the Senate in any case to hear testimony or institute a previous investigation into the fact of the existence of the Lieutenant Governor as intimated in your Letter of September 10th, because, whilst the president's chair is vacant, the Senate is not organized, and of course not qualified to conduct any formal inquiry. The election of a President *pro tem.* must in that case be an indispensable preliminary to the regular transaction of any Legislative or Judicial business whatever. Even were such antecedent proceedings practicable they are rendered necessary only by implication, which ought never to be regarded, where its operation will be to disorganize one branch of the Legislature, or to stop or embarrass its proceedings. In my judgment, however, the word “unable” in the 21st section of the Constitution, does not contemplate or imply the existence of the Lieutenant Governor, but on the contrary does more clearly authorize the Senate to elect a temporary President in case of death, than the words “absence or *non-attendance*” would, for those words do imply existence, whereas, the phrase, “unable to attend” imports the want of power or being deprived of the power to attend, which may be in consequence of death, as well as any other uncontrollable event. Admitting that even reasonable doubt does exist about the true construction of the words of the Constitution, its spirit & the invariable practice under it, ought to remove them,—I am informed that it has been the usage whenever the Lieutenant Governor did not appear at his seat, to proceed immediately in the choice of a President *pro tem.* without any enquiry into the

cause of his non attendance, taking it for granted, I presume, that the right to fill the president's Chair did not depend upon the fact of his existence, but upon the fact of his non-attendance at the Senate Chamber.

The opinion which I intimated formerly, that whenever an election to supply the vacancy takes place, it must be held on the anniversary day of choosing members of the Assembly, is more and more confirmed by reflection. The provisions of the 17th section of the Constitution, wholly relate to the manner of choosing a Governor, and provide that both ordinary and extraordinary elections, shall always be held at the times, and places, of choosing members of Assembly in the respective counties. That the electors qualified to vote for Senators, shall be the electors of Governor, that the person having the greatest number of votes at such election shall be Governor &c. The 20th section, in like manner, wholly relates to the election of a Lieutenant Governor, and has no express provision, nor is there any in other parts of the Constitution concerning the times and places of holding elections to fill vacancies in that office, nor concerning the description or qualification of persons who may vote for the Lieutenant Governor, nor prescribing whether the person having the greatest number of votes shall fill the office, or whether he must have a majority of all the votes. But the 17th section, does say, that he shall be chosen in the *same manner* as the Governor, which in my understanding is equivalent to ordaining, in express terms, that all the provisions of the 17th section, shall apply to the election of Lieutenant Governor, and one of those provisions confines the election to the times and places of choosing representatives in Assembly. I agree with you that the word *manner* does not in a strictly technical or

critical sense, comprehend time and place. Yet considering the object which the convention had in view, when they introduced into the 20th section, the words "*in the same manner*" and the connection which that phrase was intended to establish between the 20th section and the provisions of the 17th; there can, I think, exist no reasonable doubt that the phrase was there used for the obvious purpose of avoiding a repetition of and of referring in one word to all the regulations and provisions of the 17th section. Unless we give this latitude of construction to the words of reference in the twentieth section, the Questions "What description of persons may vote for Lieutenant Governor? At what times and places shall he be chosen, and shall the candidate who has the greatest number, though not a majority of the votes be the Lieutenant Governor?" are still *sub judice*, and liable to be agitated whenever the caprice or policy of a party may dictate. For as I mentioned before, there exists no other provision in the Constitution, with respect to those three particulars.

The Hon'ble Morgan Lewis.

THE GOVERNOR AWAITS PRESIDENT MADISON'S MESSAGE.

Albany, 8 Decr., 1810.

D'r Sir: I received your favor of the 30th of November, and tender my thanks for your kindness.

Pursuant to your intimation, I have taken the liberty of addressing an official communication to the President on the subject.

We are not yet made acquainted with the President's message, but are in hourly expectation of it.

The movements at Washington during this winter will excite more than usual interest as well on account of the critical state

of our foreign relations, as the domestic subjects to be discussed, and official arrangements which are expected to be made. Any information which a leisure hour may enable you to give will be thankfully received by

The Hon'ble Gideon Granger.*

GOVERNOR TOMPKINS WRITES A PERSONAL LETTER TO COLONEL LIVINGSTON.

Albany, 8 December, 1810.

Dear Sir: Your letter of the 5th inst. has been received. The subject there mentioned had escaped my recollection as I informed you it probably would unless you refreshed my memory with a line.

Inclosed is a letter for the Secretary of War† which will, I hope, meet your wishes and be serviceable to you.

Col. John W. Livingston.

GOVERNOR TOMPKINS TO COLONEL WILLIAMS ON MILITARY AND PERSONAL AFFAIRS.

Albany, Decr. 8, 1810.

D'r Sir: Your letter with its enclosures‡ was received this morning. I have noticed and shall attend to its contents.

I do not much approve the idea suggested by the Secretary of war of having two Seminaries under one system of direction.

* Gideon Granger, born in Suffield, Conn., July 19, 1767; died in Canandaigua, N. Y., December 31, 1827; graduated Yale University, 1787; served in Connecticut legislature; Postmaster General of the United States, 1801 to 1814; settled in Canandaigua; State senator, western district of New York, 1820, 1821. General Granger was conspicuous for his advocacy of the great system of internal improvement with which the name of his illustrious friend Dewitt Clinton is identified.—STATE HISTORIAN.

† Not found.
Not official.

‡ New York, Decr. 5th, 1810.

Dear Sir: Inclosed are Copies of two letters from the Secretary of War which I do not communicate officially because they do not bear any marks of such an expectation but I think it essential that you should be previously informed of the intention

Jealousies about the patronage which each may receive from government and about supposed partialities in appointments from the young men of each seminary, and the rivalry which will subsist between the pupils educated at different seminaries, will not only furnish the grounds of numerous duels, when they meet in the army, but will also draw a more distinct line in that profession between Northerly and Southerly men, and northerly and southerly interests. However, any thing rather than the academy and its present endowments and conveniences.

of the president of the U. S. in order that when you see his message you may if you please reserve a place in the speech you will make at the opening of the Legislature in which coincident observations might come in naturally and of course.

In my answer to the Secretary I have said that "in mentioning two Academies I presume the site of Staten Island might still be understood to be eligible for one in case the government of this state should propose acceptable terms." What I am most afraid of is the etiquette of each party's declining to be the first proposer: if this should be persisted in the business must be lost. Where would be the impropriety of your States saying at once that "in case the United States will lay out on the same ground an expence equivalent to what the state has expended (without confining that expenditure specifically to works) in permanent military establishments then in that case the sum so laid out shall be considered as a reimbursement to the state of the Cost of the fortifications as far as they have progressed?" It may not be necessary to designate the military Academy provided the designation does not exclude that establishment; but I do not mean to dictate to you. I know your disposition to further the views you have already suggested and I rely on such means as you may think advisable; a proposition that only requires assent may be acted upon this session but there will be no time after your Legislature meets for any discussion in Congress. To lay the whole subject before you I add a copy of my letter to the Secretary to which No. 1. is the answer.

I am with the greatest respect and esteem, Dear sir your Obt. Servant,
Jona. Williams.

His Excellency, Govr. Tompkins.

P. S. I was much disappointed when my note of invitation was returned from your office you having left town.

The subject was the denomination of the Castle I erected which is to descend to posterity as Castle Williams and I hope it will be accompanied to the last moment of its existence by Fort Tompkins.

We had a fine day and never saw together more pleasant faces; every man was full of mirth and jollity—The Corporation left us early on and of a sitting they had directed which saved the little General from a sitting of another kind; standing would have been out of the question.

I consider it a fortunate circumstance that out of a company of between 80 & 100 gentlemen not one accident happened tho' the crossing the water at this season is at best dangerous yet many passed over late. "There's a sweet little cherub that sits up aloft."

Copy of a letter from Col. Williams to the Secretary of War.

New York, Novr. 13, 1810.

Sir: Some time since it was intimated to me by the Governor of this State that the authority of the Commissioners under the Laws of 20 March 1807 and 18 March 1808 still existed and if the United States should require the land for Military purposes he had no doubt of the Consent of the Commissioners so far as their authority might extend. It was also intimated to me (as a matter of opinion) that if the United States would establish the military Academy on this ground the State of New York would agree that the cost of the works should be appropriated to the Academy in such a manner as the Government of the United States might direct.

These intimations could not fail to make a very strong impression on my mind or considering this subject in comparison with the view of making the Academy what it ought to be at West point. In one case we should have the most advantageous site in the United States with an ample fund for buildings apparatus Library &c without in effect any expence since the value of the money will exist in the works already erected and which I recollect were much approved of by you. In the other

If you have escaped from Dr. Mitchell, I hope you will, on this occasion write a letter on fortifications for me.

I lament my absence from the christening because no doubt you baptized the child with wine. I shall always love Castle Williams, both for its beauty and usefulness and for its father's sake.

I calculate upon the pleasure of seeing you in Albany during this winter.

Col. Jona. Williams.

case a fund to a full equal extent must be provided from some other source and be a real exence for you will recollect from your own view that all the buildings at West point are not worth the money requisite to put them in compleat repair. This impression gave rise to my letter to the Governor of the 21st Sepr. last.

It would extend this subject beyond its proper bounds in this stage of the business to go into a minute comparison between the two sites; but I think I can shew undeniably that the numerous deficiencies in the site of West point will be amply compensated in that contemplated at Staten Island; while every advantage that can be attributed to the former exist in an equal or greater degree in the latter place.

It happens unfortunately that the Legislature of New York will not sit till late in January and Congress must dissolve on the 4th of March so that it will be hardly possible to cause any proposition to be made on the part of the State in due time; but if to the bill proposed in my last a clause could be inserted authorising the president to accept of a grant from an individual state on such terms as he might deem equitable and just there is no doubt of having the very terms indicated by the governor.

Perhaps if the bill proposed in my last should pass without any additional clause still the choice of the site being in the president and the cost of the fortifications coming under the general appropriation for defence and already left to his discretion he might be able to comply with the third condition of the Governors letter; and if so he would for much stronger reasons be authorised to accept of the gift.

I beg leave to submit to your consideration 1st the inclosed copy of my letter to Governor Tompkins before mentioned—2d a transcript of the two laws referred to and 3d Governor Tompkins' reply of the 12th instant in original.

I have the honor to be, With the Greatest respect Sir, your obt. Servant
(signed) Jona. Williams.

The Secretary of War.

A Copy of two Letters from the Secy. of War.

No. 1.

War. Dep't Novr. 23, 1810.

Sir: Your letter of the 12th instant enclosing a transcript of the Laws of the State of New York together with your correspondence with his Excellency Governor Tompkins relative to a cession of the land and Works on Staten Island has been received and laid before the president for his consideration.

Terms and conditions are stumbling blocks which in the present case I am very apprehensive will delay at least a final decision.

Respectfully,

(signed) W. Eustis.

Colo. Jona. Williams, New York.

No. 2.

War Dep't Nov. 30, 1810.

The subject of the Military Academy will be recommended for the consideration of Congress by the president. An extension of the Establishment to embrace a branch of the present or the institution of another Academy at the seat of Government will be recommended. The president and I may add the whole Executive coincide most entirely in the opinion I have ever entertained of the usefulness and importance of this branch of instruction and from the favorable opinions which I have observed in the members of the Legislature I entertain strong hopes that adequate provision will be made.

Whenever the subject shall be taken up by a Committee you will be informed and in the mean time revolving the subject in your own mind you can be prepared to give the detail of effecting the establishment of two Schools or Academies under one system and one direction.

Respectfully, Your Obt. Servt,

(signed) W. Eustis.

Colo. Jona. Williams.

THE GOVERNOR RECOMMENDS COLONEL LIVINGSTON FOR A COMMISSION IN THE ARMY TO THE SECRETARY OF WAR.

Albany, Decr. 8, 1810. ·

D'r Sir: John W. Livingston, Esquire, son in law of the late Venerable Govr. Broome, has intimated to me his intention of applying for the appointment of Lt. Colonel in the Light Artillery. Mr. Livingston held a commission for several years in the corps of Artillery of the United States, and was aid to Govr. Lewis, and is now one of my aids. He is a gentleman whose character, qualifications, connections, and patriotic attachments are such that I feel great pleasure in recommending him as highly worthy of and qualified for the station he solicits.

The Honble William Eustis.

The enclosed was handed to me during the Summer whilst you were at the eastward. I am not personally acquainted with Mr. Bogardus, but take the liberty of mentioning that the persons who have subscribed his recommendation are all known to me and are gentlemen of intelligence, respectability & political standing in the County of Greene. Mr. Samuel Haight is a Senator of the State, and Judge Cook is elected to Congress as successor to Mr. Gardinier,—Mr. Scott and Mr. Cantine have each been Assistant Attorney General of the District in which they reside. The other two gentlemen are also of the first standing.

The Hon'ble William Eustis.

THE GOVERNOR MAKES A REQUISITION UPON THE GOVERNOR OF PENNSYLVANIA FOR A CRIMINAL.

Albany, Decr. 10, 1810.

Gentlemen: Your letter and the other papers, relating to the apprehension of Van Doren were received about an hour since, and I loose no time in complying with your request, as far as the documents transmitted to me will allow. The law of the United

States does not authorize a circular as you suggest, and even to every individual state, there must be sent with the Executive demand, a certified copy of the indictment. I have been furnished with only one copy. But to oblige you as far as lay in my power, I have sent an additional demand for the Governor of Pennsylvania to which you may annex in New York a copy of the indictment, certified by Mr. Wyman and then the demand will avail you in that State. Should you, however, find that he has escaped beyond both those States, and have an intimation where he may be found, upon writing to me, and sending a copy of the indictment, you shall be furnished with another demand for the State or territory where he may stop or be caught.

Mr. David L. Haight, & Mr. Richard Kip.

AND SO INFORMS AQUILA GILES.

Albany, 10 December, 1810.

Sir: Your letter and the papers relative to Van Doren have just been received, together with a letter from Mr. D. L. Haight and Mr. Richard Kip, desiring me to issue a circular demand to avail them in other states than New Jersey. With this demand I did not feel myself authorized to comply, but to oblige them as far as possible, I have sent a demand on the Governor of Pennsylvania, which I will thank you not to deliver until a certified copy of the indictment is annexed to it.

Permit me here to observe, that when the clerk is applied to for a copy of an indictment, for this purpose, he ought to be apprised of the use which is to be made of it, for in that case he would give a formal certificate under the seal of the Court, which would certainly be a more respectful and authentic document than a copy merely indorsed "a true copy" &c. which may do well enough to be used in our own Courts. I should prefer that he would still add such formal certificate both to the copy annexed, to the demand of the Governor of the State of New Jersey, and to the one to be annexed to the demand for Pennsylvania.

Aquila Giles, Esqr.

THE GOVERNOR CALLS ATTENTION OF THE SECRETARY OF STATE OF
THE UNITED STATES TO THE DISPUTED BORDER LINE IN THE ST.
LAWRENCE RIVER, INCLUDING THE THOUSAND ISLANDS.

Albany, 10 Decr., 1810.

Sir: The definitive treaty of peace between the United States and his Britannic Majesty, is so worded as to that part of the boundary line of the former, which extends from St. Regis on the St. Lawrence to Lake Erie, that controversies and broils must inevitably arise concerning the title and jurisdiction of many of the Islands in that quarter. Numerous complaints have heretofore been made to me both by the inhabitants and by friendly Indians, of intrusions, and waste committed upon Grand & Navy Islands in the Niagara River, and upon Carlton Island, Grenadier Island, Buck Island, Grand Isle, and others in the St. Lawrence. Some of those Islands are of great value, and furnish important advantages for commerce, and eligible positions for military operations. The delicate situation of the two countries

has, heretofore, prevented my taking any measures upon the subject, or troubling the general government with a communication which would add an item to the embarrassments already existing. But the State of New York, having patented some of the islands which are evidently on our side of the main channel, and being applied to for others, has become deeply interested in having the middle of the River ascertained and the title to the Islands put out of dispute by an official designation of those which belong to the parties respectively. Grenadier Island, near the outlet of Ontario, is nearly eighteen miles in length, and from three to six miles wide, and contains excellent land. The British have patented part of that Island, and there are Six or Seven Americans upon it, under what title I know not. The British have also possession of Carlton Island, and have stationed and maintained a military guard there. This island is undoubtedly ours, whether the navigable channel, or an equivalent point from each shore is deemed to be the middle of the river. In taking the census, in assessing the taxes, in noticing and punishing crimes and misdemeanors, in collecting duties, in preventing waste of valuable timber and in various other matters, the undefined state of the boundary line produces great perplexity and difficulty to public officers & to individuals, and is a source of continual observation and complaint by our frontier inhabitants who have become very numerous.

It has been unofficially mentioned to me, that some arrangement upon the matter here referred to, has already been adopted between the two Governments, and that an appropriation has been made, to defray the expense of Commissioners to settle the line. Permit me to add my earnest wish, that the subject may meet the early and prompt attention of the National Govern-

ment. This request proceeds from a sense of official duty, and from a conviction, that embarrassments and difficulties will so multiply, by a delay of the settlement of that part of our territorial jurisdictional limits, as to produce, ere long, serious and embarrassing controversies and commotions.

The Honble. Robert Smith.

THE GOVERNOR BRINGS THE MATTER OF THE CANADIAN BOUNDARY LINE TO THE ATTENTION OF CONGRESSMAN PETER B. PORTER—
THE MILITARY ACADEMY.

Albany, Decr. 22, 1810.

D'r Sir: The words in which the definitive treaty, describing the boundary line of the United States from St. Regis to Lake Erie, are susceptible of a variety of constructions, calculated to produce misunderstandings and disturbances, which at no remote period, will become very serious. The Islands situated in the water communication between Lake Erie and the falls, (Grand Isle, Navy Isle &c.) and those which are in Lake Ontario and the St. Lawrence (Grenadier Island, Carlton Island, Buck Island, Long Island &c.) are of immense importance to this State, and the United States, as well on account of the value of the soil and timber, as for the facilities they afford to commerce and their eligibility for military positions and operations. The words thro' the middle of the St. Lawrence leave it *sub judice*, whether the line pursuing the sinuosities of the river and equidistant in all places from each shore (which will divide many of the Islands between us and Canada) or a line pursuing the channel or navigable stream, shall be the mutual limit of territory and jurisdiction? The words "along the middle of the water

communication between Ontario and Erie " are still less definite. The perplexities and doubts which have existed, in taking the census, in executing process and punishing crimes, in the assessment and collection of taxes, in the execution of the revenue laws, in the construction of patents, and settlement of titles, in performance of the duties enjoined by the statutes relative to intrusion upon public lands, and in a variety of other public concerns, call for a speedy official designation of that line, and of the Islands which shall permanently belong to the parties respectively. I have addressed a communication to the Secretary of State, soliciting the early and prompt attention of the National Government to the adjustment of the above boundary line, and hope that the Senators and members of Congress from this State will unite their influence to have that desirable and important object speedily accomplished.

The endowment of the military academy excites some interest, and is indeed of considerable importance to us. To derive from it the benefits of a National Seminary, however, intercourse with the same society, the inculcation of the same moral and political principles, the same system of discipline and education, the same views of men and measures, and the same national attachments ought to be adopted and cultivated. This can only be effected but by having one Seminary under the superintendence and instruction of one set of professors, and subject to an uniform system of Government. The endowment of an additional academy at Washington, if the others were intended to be equally permanent, would be a measure tending to favor a dissolution of the union; and, therefore, I should consider that plan, merely as an entering wedge for fixing the establishment at that place, permanently and exclusively. For my own part, I had

rather at once endow one institution adequately at Washington, and none elsewhere, than place an additional one there, which will soon become the Aarons rod, and swallow up the rest. For those who know the advantages of being on the spot and having acquaintances and friends there, when favours are to be distributed, and who anticipate, as I do, the preference which will be given to that seminary in liberal endowments, in the appointment of its young men in the army, and engineer corps; in the selection of messengers to bear dispatches or of Secretaries of Legation, &c. and who believe that a genial warmth will on every occasion and in every respect be imparted to that Institution by Executive and ministerial patronage, it will not be surprising that military academies elsewhere should be chilled, dwindle & finally abolished. Two or more distinct Seminaries, two or three hundred miles apart, must inevitably either become rival and hostile institutions, or be merged into one. The jealousies, misunderstandings, northerly and southerly prejudices, attachments and views, personal ambition and rivalry, &c, amongst the young gentlemen of different institutions, when they meet in the army, will be the source of duels, and other difficulties and disadvantages, which will very soon demonstrate the necessity of a consolidation, and it is easy to predict, which site will preponderate in that case. It appears to me, therefore, that there ought to be but one Institution of the kind in the United States, and perhaps I am prejudiced or misled when I say that the seat of Government ought by no means to be the site of that one. I have no doubt that nothing but a rare facility of occurrences will enable the New York members to obtain a suitable, exclusive endowment for the Institution, in its present situation, or at Staten Island. But the latter place embraces

so many and such superior advantages for the Navy, as well as the army, and in point of health, eligibility; for practical experiments, cheapness of living, vicinity to genteel amusements and society, to fortifications which may be practicably explained, to books, instruments, and other advantages for a complete military education, that I should be astonished if any man not ignorant of its advantages, or prejudiced by locality should give Washington the preference. There is one, and but one argument that gives Washington the advantage over other places, and that is, that the institution is a national one, and will there be at the seat of government, and immediately under the eye and direction of the national administration. But this furnishes to my mind one of the strongest objections to the place; for the young men will there inevitably spend a greater portion of the winter, the most precious period for study, in hearing debates of Congress, and in the political news and amusements of the day, and will moreover be likely to become menservers, clatterers, intriguers, and courtiers, and will imbibe personal prejudices against, or attachment to, public men, merely from their opposition to, or support of, the ambitious views of the particular students.

No situation or circumstances can be more unfriendly to forming the character of a learned, modest, frank and patriotic officer. If an additional Seminary should be ultimately established at Washington, the law organizing it, ought to contain some provision to compel the students educated there, to devote themselves wholly to the army if required, otherwise it will be a seminary of favoritism, where gentlemen of wealth and influence will strive to have their sons educated for other professions, both because an education can be there obtained at the public expence, and because it will offer their sons, opportunities of

acquiring acquaintances and patronage which no private seminary will afford, and which will be important to them in any other profession or business to which they may devote themselves.

The institution in its present state, reflects disgrace upon the government, and I, therefore, hope, the members from this State, may be able to get it endowed and revived either at West Point or Staten Island, the latter of which is undoubtedly the most eligible position. But if that cannot be done without yielding to the establishment of an additional one at Washington, I presume the popular opinion would be here, that half a loaf is better than no bread, and, therefore, that our members ought to get one established and endowed in this State at all events.

As you are a frontier member, and chairman of the Committee relative to the Military Academy, I have addressed this letter to you, and request that you will consider it as intended for your own eye only, except so far as relates to the definitive adjustment of our northerly and westerly boundary line.

I shall deem it a favor to be furnished with the important documents which may be submitted to Congress, and to be advised from time to time of such occurrences and events at Washington, as you may deem to have a bearing upon our State interests or politics.

The Hon'ble Peter B. Porter.*

*Peter Buel Porter, born in Salisbury, Conn., August 4, 1774; died in Niagara Falls, N. Y., March 20, 1844; graduated Yale University 1791; studied at Litchfield law school; began practice of law in Canandaigua 1794; county clerk Ontario county, 1797-1801; member of Assembly, 1802; canal commissioner, 1809; member of the 11th and 12th Congresses, 1809-1813; introduced the report that recommended war with Great Britain; resigned in 1813; served as major-general of volunteers war of 1812; received the thanks of Congress and a gold medal, and a sword from the Legislature of New York; declined appointment of Commander-in-Chief of the United States Army, 1815; member of the 14th Congress 1815, 1816; Secretary of State of New York 1815, 1816; defeated for Governor of New York by Dewitt Clinton in 1817; regent of the University of the State of New York 1824-1830; member of Assembly Erie county 1829; Secretary of War 1828; presidential elector 1840.

GOVERNOR TOMPKINS' ADVICE TO AN APPLICANT FOR OFFICE.

Albany, Decr. 22, 1810.

D'r Sir: Yours of Wednesday has been received this evening, and I loose no time in answering your enquiries.

I presume the success of every applicant depends in a great measure on the opinion which the members of the Council have, of the qualifications and standing in Society of the Candidate. Lumber merchants are undoubtedly the most capable judges of the *professional qualifications* requisite for an Inspector of that article, and, therefore, their signatures will give the Council the most correct impression as to *qualifications*. But the Knowledge of a man's *moral* and *political* character and of his *repute in Society* is not confined to that class of persons, for which reason, the recommendation of such other respectable citizens as may be acquainted with you and whom the members of the Council may know, will undoubtedly be important. I am unable to say who will compose the next Council, and of course cannot inform you whether a long list of subscribers, or only a few respectable names will have the greatest weight with them. Your own discretion, therefore, must regulate you as to the number of signatures to be obtained.

Mr. Nicholas B. Lyon.

GOVERNOR TOMPKINS REQUESTS CONGRESSMAN MUMFORD TO SUPPLY HIM WITH WASHINGTON NEWS AND GOSSIP.

Albany, Decr. 22, 1810.

D'r Sir: By the last evening's mail I received the documents which you sent me, for which be pleased to accept my thanks.

Mr. Porter, being a frontier member, I have by the last mail advised him of my having made a communication to the Secre-

tary of State relative to an official and permanent settlement of our frontier boundary from the St. Regis westwardly, through the river St. Lawrence and Lakes Erie and Ontario. The treaty describes that line in such vague terms, as to open a door for doubts and controversies about the Islands in those waters, and the limits of Jurisdiction there. The embarrassments which have already presented themselves in the execution of certain duties and laws, are daily enhanced by the increasing importance of many of the Islands and of the adjacent country; should the non-intercourse act go into operation with respect to Great Britain, the indefiniteness of the territorial and Jurisdictional limits in that quarter, will perplex and embarrass the Revenue officers.

Mr. Porter is requested to communicate to the members from this State, that part of my letter which relates to this subject, and I have ventured to ask their co-operation in calling the attention of the national government to that important concern.

It will afford me great pleasure as well as profit to be advised occasionally of such matters as you may deem of national importance or which may affect the interests and politics of this State in particular, and you will not think me unreasonable or immodest (for I am not a candidate for anything) when I intimate, that I am so much of a Yankee, as to be solicitous of being the first to *know* who is to be ambassador at one Court and who at another; who is to be judge here, and who there, &c. There are always a sufficient number who are qualified in their own conceit for every station, and I, therefore, presume there is no dearth of *candidates* for the favours which are to be distributed at Washington this winter, but all I want to know as early as possible, is, who *are appointed*.

It has been said in the news-papers, and unsaid again, that the Post Master General was appointed to succeed Judge Cushing. There are undoubtedly important arrangements upon the tapis at Washington, and we are very curious here to know the result of them. You must not expect answers to your communications after the "tug of war." commences at Albany.

Please to remember me to your colleague Dr. Mitchell, to whom and yourself, I wish an agreeable session.

The Honble. G. [Gurdon] S. Mumford.

THE GOVERNOR WRITES TO COLONEL WILLIAMS THAT HE DREADS A
JOURNEY TO WASHINGTON—LAND FOR FORTIFICATIONS ON
STATEN ISLAND.

Albany, Decr. 29, 1810.

D'r Sir: I have received your private letter of the 24th. It is not in my power to say any thing more decisive relative to the ground on Staten Island untill the Legislature shall convene. There exists in my mind but little doubt, but that they will empower certain officers to make the transfer upon such terms as in their discretion may be deemed proper, and that under that unlimited and unqualified authority those officers will assign the property and works to the United States upon terms of great liberality.

I am now completely poised upon the subject of going to Washington. If I go, shall leave this on the 5th of January and be in New York about the time you will set out, and shall be happy to accompany you. I dread such a journey, and nothing but necessity will compel me to take it. It will materially depend upon the state of the weather and roads, and the

situation of my family on the 4th whether I depart or not, should the Journey be commenced, I shall be constrained to travel like a post boy to be back in time to meet the Legislature.

Col. Williams.

GOVERNOR TOMPKINS REQUESTS THE OPINION OF CHIEF JUSTICE
KENT IN THE CASE OF JOHNSON, CONVICTED OF MURDER.

Albany, Decr. 29, 1810.

The Governor will thank the Chief Justice for a report with an opinion thereon, in the case of James Johnson, who was convicted of murder at the recent Oyer and Terminer in New York.

The letter of Johnson's Counsel, which the Chief Justice anticipated has come to hand, they aver, "it to be an undoubted fact, that the prisoner was *much intoxicated* at the time of committing the act, and altho' they could not urge that as a legal defence, yet they think it diminishes the turpitude of the crime." This allegation will suggest to the Chief Justice the propriety of being more minute in that part of the evidence which relates to intoxication than in the detail of other matters which transpired upon the trial.

In case it be an *undoubted fact* that the convict *was* much intoxicated, and that the homicide is materially to be ascribed to his being in that situation, the Chief Justice is requested to say, how far, and under what circumstances, that excuse will alleviate the turpitude of homicide, or extenuate to the grade of manslaughter, an act which would otherwise amount to murder; and whether intoxication is not to be regarded as an unfortunate frailty or malady, which furnishes cause for mitigation, in the dispensation of mercy, if not in the stern and inflexible decisions of a Judicial Tribunal?

“There were also” say the Counsel, “circumstances, which the prisoner might have misunderstood, amounting to a strong provocation, although they are since so explained, as not to have been so intended. We refer particularly to a supposed insult offered to his wife, and to his being seized and held by one Dimond, in a manner, which as the act was unexplained, he might have supposed hostile.

“We fear the Jury did not sufficiently understand, that a provocation arising from mere mistake, as to facts not existing, but supposed to exist, may in many cases diminish the crime to the grade of manslaughter; we are informed since the trial, for the first time, by Dr. Walker, a reputable surgeon, that he examined the wound before the Coroners Jury and subsequently, and that the wound was such as could not have been expected to kill, and that it was most extraordinary that it should have been fatal.”

A decision upon that part of the letter which relates to a misapprehension of facts, not existing, but supposed to exist, will depend upon the evidence. The law in that respect is so plain, and well settled, as to furnish very little aliment for controversy.

The alledged discovery, since the trial, of testimony, which it is intimated would have been important, may be material or not, accordingly as the description of the mode of giving the wound and of its situation, extent, and probable mortality was or was not investigated upon the trial. The Chief Justice will, therefore, please to detail the evidence heard upon that point and give his opinion as to what influence the information said to be derived from Dr. Walker would have had on the trial, or ought now to have, upon the proceedings.

The foregoing quotations comprehend the whole of the letter which bears upon Johnsons case, and are furnished to the Chief Justice for the purpose of enabling him to condense his report and to confine his opinion, if he prefers it, to those points only upon which the Prisoners Counsel place any reliance.

The Honble Chief Justice Kent.

GOVERNOR TOMPKINS ACQUIESCES IN THE VERDICT IN THE JOHNSON
CASE.

Albany, 8 January, 1811.

Gentlemen: Your letter relative to James Johnson, now under sentence of death in the city of New York, has been duly received.

A deliberate consideration of the evidence and proceedings as reported by the presiding Judge, has terminated in an entire acquiescence on my part in the verdict; and although the justness of a condemnation by a legal tribunal does not operate an estoppel to the dispensation of mercy, it nevertheless enjoins greater circumspection on the Executive, and demands more decisive circumstances of alleviation than where legal guilt is equivocal.

Persons in low life and indigent circumstances and more particularly negroes, who are reared in a state of bondage, are generally deprived not only of the advantages of education and intercourse with moral and well informed Society, but are frequently unacquainted with the principles of morality and the precepts of religion. They are of course little cognizant of the legal or moral turpitude, and consequences of particular actions, whilst their temper and passions are unrefined and unmanageable; and since the law does recognize and tolerate the

passions and frailties of human nature, and permits them to palliate the turpitude of crimes, it is an indispensable duty, to extend its benignity most liberally to persons of the above description. With that impression upon my mind, and with a confirmed repugnance to the punishment of death, I entered upon the examination of Johnson's case with the most favorable prepossessions.

The first subject to which your letter calls my attention, is "that the prisoner was much intoxicated at the time of committing the act, and that altho' you could not urge this as a legal defence, yet you think it diminishes the turpitude of the crime."

I will here premise, that the ancient remorseless doctrine, which denied to an act of homicide committed in the phrenzy of intoxication, any palliation on that account, is justly discarded, and principles more consistent with the dictates of humanity and the infirmities of mankind, are substituted in its stead. So that now, if drunkenness be not designedly assumed and be so great, as to deprive the individual of deliberation, or materially to impair his reason, it ought to be, and will be, regarded by the Judges as an unhappy infirmity, and may extenuate to the grade of manslaughter an act which would otherwise amount to murder, and constitutes of course, matter *for legal defence* as well as for executive clemency. This doctrine is sanctioned by the learned Chief Justice in his report, and I doubt not, is acquiesced in by the other Judges who sat with him at the trial. But when the effect of intoxication is so inconsiderable as not to obscure the reason and deliberation of a man, it seems to afford no cause for legal mitigation and seldom justifies an exercise of the prerogative of mercy.

As to the intoxication of Johnson, or the degree of it, there is no evidence except in the observation of one witness, who testified, that the prisoner appeared to be in liquor that evening. The effect was so inconsiderable, however, as to escape the notice of all the other witnesses, although they had an equal, if not a better chance of observing the effects of intoxication, than the woman who made the above remark. The variety of conversations, diversions, and business in which he partook that evening, the retention of his agility and strength, and of skill to manage them, so as twice to overpower Robinson, who was confessedly sober and followed a business requiring great muscular strength, his recollection of the fee for dancing—and the consciousness and reflection of a sober man, which he manifested by hiding himself behind the door immediately after Robinson expired, and the total absence of testimony of his being disguised in liquor when the watch apprehended him, go strongly to disprove any considerable degree of intoxication. Upon the whole, there is not only deficiency of affirmative testimony, to establish that he was much intoxicated, but his deportment and agency in all the affairs of the night seem to negative that fact.

The three other points mentioned in your letter are contained in the following paragraph "There were circumstances which the prisoner might have misunderstood as amounting to strong provocation, altho' they are since so explained as not to have been so intended. We refer, particularly, to a supposed insult offered his wife, and to his being seised and held by one Dimond, in a manner which as the act was unexplained, he might have supposed hostile. We fear the Jury did not understand that a provocation arising from mere mistake, as to facts, not existing,

but supposed to exist, may in many cases diminish the crime to the grade of manslaughter. We are informed since the trial for the first time by Dr. Walker, a reputable Surgeon, that he examined the wound before the Coroner's Jury, and subsequently, and that the wound was such as could not have been expected to kill, and that it was most extraordinary that it should have been fatal."

I. No supposed offence to Johnson's wife, originating either with Dimond, or the deceased, can with propriety be admitted in palliation of the crime, for, if any, it was very trivial and was not resented or retaliated at the time. It, therefore, constitutes but a feeble pretext for stabbing with a fatal weapon, and with ferocious cruelty, more especially after other conversation, diversions and business had intervened and called off his attention from that subject, and had afforded abundant time and opportunity for passion, if it existed, to subside. So far from extenuating the subsequent act, I have no hesitation in saying, that the same act perpetrated in the dancing room, recently after the alledged insult, with a deadly weapon, not sought after or provided for the purpose, but already with him would have been accounted murder; both because of the inadequacy of the provocation, the nature of the instrument employed, and the manner of using it.

II. That the prisoner did not misunderstand the conduct of Dimond in seizing and holding him, I verily believe. His wrath was manifestly directed against Robinson alone. He commenced the affray with him—was separated and was engaged a second time, before Dimond came into the entry. The position in which he held the knife, while Dimond was holding him, and the manner in which he changed it from hand to hand,

evinced, that he did not originally procure it to use against him, but to kill Robinson, as he repeatedly declared, whilst searching for the ax, and his apparent threat or attempts to cut at Diamond's arms, were evidently designed, merely to frighten or drive Dimond from between him and his antagonist, towards whom he was struggling and accordingly, as soon as that was effected instead of pursuing Diamond he immediately rushed upon Robinson and killed him. It is moreover worthy of notice, that Johnson's wife also wreaked her vengeance solely upon Robinson, whom she struck twice upon the head, and called upon her husband to knock him down with anything he could get, and at the same time Johnson was searching for his ax, with the avowed intention of killing Robinson and not Dimond. After the wound was given, Robinson retired into the Street by Dimond, and Johnson came out after him with the knife, and whilst there made no complaint of Dimond, nor did he manifest any resentment towards him or offer any violence to him altho' within his reach. There is no doubt, in my mind, therefore, but that Johnson did not regard Dimond's conduct any farther hostile than as it was an impediment to his approaching Robinson; and that he viewed Dimond's motives, intent, and conduct, in their true light, namely as an interference and resistance to prevent him from getting at Robinson the undoubted object of his malice. Although, therefore, "the Jury might not have understood" (which I seriously question) "that a provocation arising from mere mistake as to facts, not existing, but supposed to exist, may in many cases diminish the crime to the grade of manslaughter" still there is no cause for my intervention, so long as I believe, and am convinced, the Jury believed, that neither a supposed prior insult of his wife,

nor a mistake of the conduct or motives of Dimond, instigated Johnson to the murder.

III. The only point of view in which the information, derived from Dr. Walker, since the trial, could have been urged in the prisoner's behalf was to shew that he did not probably *intend* to kill Robinson. The evidence upon that point is so full and conclusive, even independent of Johnsons own declaration, whilst searching for the ax, and after he had taken the knife, that he would kill the deceased, as to preclude a belief, that the opinion of a Surgeon as to its probable mortality from its appearance, after death, would have raised the least shadow of doubt, that the wound inflicted with a carving knife, with great violence, near the main artery, which it separated, and after positive and repeated declarations of a design to kill, was intentional of death.

Your gratuitous and faithful exertions in his behalf, entitle you to great commendation, and whilst I duly appreciate your humane motives and services, allow me to request that you will extend your kindness so much further, as to convey to the unfortunate man, an intimation of the hopelessness of his condition.

Samuel W. Hopkins & George Griffin, Esquires.

P. S. A copy of the Chief Justices report is annexed.*

THE GOVERNOR DECLINES TO INTERFERE IN THE CASE OF SINCLAIR,
CONDEMNED TO DEATH.

Albany, 9 Jany., 1811.

Honored Sirs: Your representation in behalf of John Sinclair, alias Sinkeler, has this day come to hand.

*Not found.

My attention has been previously devoted to an examination both of his trial, and that of the other convict, who is doomed to die on the same day. The evidence against the former, establishes beyond a doubt the evidence of his having killed David Hill. The wife of Hill and another woman who was in the house, at the time, concur in imputing the act to him. He also subsequently confessed to the coroner, that he did stab Hill—expressed his sorrow for it—assigned his reasons for having done it, and pointed out the knife with which the deed was perpetrated.

The night before the wound was inflicted the deceased had treated Sinclair in such a manner, as to excite his resentment, and he then uttered this threat "*You shall pay for this.*" About a week previous to the Homicide, in conversing about murder he remarked "*that if he could kill three persons, or be the death of three persons he should be easy*" and to the subsequent enquiry of the coroner, for the cause which instigated him to stab the deceased. After recapitulating Hills ill-treatment on Saturday, and his having told him on Saturday morning, that he must go out of the house, Sinclair informed the Coroner he was *mad* at the deceased for it. It is moreover testified that Sinclair was Sober and conversed and behaved deliberately and rationally on Saturday, before the wound was inflicted. The prior declaration of revenge—the coolness and deliberation evinced by him the morning the act was committed—the nature of the instrument employed, the secret and sudden manner in which it was used—the unsuspecting situation and engagement of the deceased at the time—Sinclair's immediate flight from the house, and his subsequent relation of the cause and motive of his conduct, all concur, not only to fix

the homicide upon him, but also to impose the belief that the act proceeded from preconceived, and deliberate malice, was designed to be fatal, and therefore clearly constitutes the crime of murder.

Age, unless attended with rare imbecility of mind, forms no excuse or extenuation of a cruel and deliberate act of homicide. On the contrary, where reason and judgment are not suspended, the experience, the knowledge of consequences, and the coolness and gravity of advanced years, renders the outrageous and malicious use of a deadly weapon, in cool blood, the more inexcusable.

The only shadow of Justification for an exercise of the prerogative of mercy, in his favor, is furnished by your impression, of feebleness of mind, or insanity, at the time he committed the crime, arising from his present apparant want of consciousness of it, and his steadfast declarations of innocence. The uniform denial of a fact, so well established may admit of a different inference than the one you draw from it. Instead of manifesting that his mind was deranged, when he committed the act, may it not be reasonably suspected that relying upon your benevolent dispositions—your deserved weight of character, and the impression which an appeal from you would make in his favor, he has adopted that course of conduct, in hopes of obtaining your intercession in his behalf? The difficulty of detecting impositions in that matter, and the powerful motives which a person under condemnation and judgment of death, has to fabricate and feign any excuse, or defect, which may contribute to suspend or prevent his impending doom, authorise, without a violation of charity a jealous construction.

The fact of killing having been established before the court, it was the duty of that tribunal, and I am bound to presume it did, admit and consider all the testimony that it was adduced in extenuation of the crime. The opinion of the presiding Judge as to the guilt and sanity of Sinclair, is contained in his official report, which for your greater satisfaction is annexed.

An exercise of the power of respite with which the Executive is endowed does not dispense with, but merely suspends the Execution of the sentence until the meeting of the Legislature; and to use the prerogative in a case where there is no reasonable grounds for, or expectation of, their remitting the punishment, prolongs the cruelty of suspense, and seems rather an act of inhumanity than of tenderness to the convict.

I greatly respect, and duly appreciate your humane and benevolent motives, and question not the sincerity of your impressions. But altho' as an individual I entertain feelings of compassion and forgiveness for the unhappy object of your application, still my belief that the death of Hill is not imputable to such an enfeebled or disordered state of mind in Sinclair, as to render him irresponsible for the crime, and my impressions also of deliberate and express malice, impose upon me the painful official duty of declining to arrest the execution of the judgment of law.

To an assurance of my great respect, and esteem, permit me to add unfeigned thanks for your pious and devout wishes for my welfare.

The Revd. Frederick W. Geissenhainer & The Revd. John Molther.

AND NOTIFIES JOHN ANTHON TO THAT EFFECT.

Albany, Jan'y 15, 1811.

Dear Sir: Previously to the receipt of your favor of the 7th instant the case of John Sinclair had been brought before me, by a joint letter from the Revd. Mr. Geizenhainer and the Revd. Mr. Molther. After deliberate consideration, I felt it my duty to decline arresting the execution of the sentence. For the reasons and motives of that determination I beg leave to refer you to my answer to their letter, and the report of the Chief Justice which is annexed thereto.

John Anthon, Esquire.

THE GOVERNOR ASKS JOHN V. HENRY FOR INFORMATION REGARDING

A FEE.

Albany, Jany 15, 1811.

D'r Sir: In a letter which I have lately received [from] Mr. Cornelius Ray of New York, relative to the settlement of the Estates of Mrs. Everson & John Ray deceased, it is observed that he is of opinion a proportion of the fee received for James Ray, deceased, ought in justice to be refunded, and desires me to speak to you on that subject.

The circumstance of my having had an agency in introducing James, and paying the fee, has I presume, induced Mr. Ray to address me upon the subject; and as I design to answer his letter by the mail of Monday next, you will confer a particular favor by informing me in the mean time, what answer I may give concerning an apportionment of the fee.

Jno. V. Henry, Esqr.

LEGAL QUESTIONS INVOLVED IN THE SETTLEMENT OF THE ESTATES OF
RAY AND EVERSON.

Albany, Jan'y 20, 1812 [1811].

Dear Sir: Your letter of the 22d of December has been received the 10th instant. It was put into the Post office at New York by Mr. Macomb, who made a memorandum on the envelope, that he found it at No. 1 Wall Street. This statement will obviate any censure that would otherwise attach to me for the apparent delay in attending to its contents.

I have no doubt that one half of the estate of John Ray, and the one half of that part of Mrs. Evertsons Estate, given by her will to the children of John Ray, exclusively, and one fourth part of the residue of Mrs. Evertsons estate now belong to John Ray, and that he has a right to require of the Executors of both Estates, an account of the administration of the personal estate, and payment of the balance belonging to him whenever he thinks proper, the possession and controul of one undivided half part of the real estate devised by both wills to the children of John Ray, has also appertained to John since he come of age.

The only matter which appears to me to require great attention is the mode of stating and liquidating the accounts. If the legacies given by both wills vested immediately, the children's accounts are to be separately stated and adjusted. For example: John Ray will be credited separately upon the death of his father, with his third of the nett balance of his fathers personal estate, and with his third of that part of Mrs. Everson's estate which was given to John Ray's children upon her death; and with his third part of one half of the residue of her estate likewise at her death, and with the same proportion of the income of the personal and real estates accrued since. The debtor side

of his account will contain all the payments, advances and expenditures which have been made for him separately and exclusively.

Elsie's account will contain the same credits, and will be debited with the separate and exclusive expenses.

The account of the share of James Ray deceased, will be stated in the same manner up to his death, including debts, funeral expenses, &c. at which time one half the nett balance will be credited to John's and the other half to Elsie's account.

On the contrary, should the sound construction of the wills be, that the legacies did not immediately vest in the children respectively, or if they did vest immediately, are made subject by the wills, to the maintenance of the children jointly, without regarding the inequality of the expenses and payments for them respectively, then the accounts will be differently stated viz:— a general account of the Estates, crediting on one side all that is received from them, and debiting on the other what is paid for all the children indiscriminately, and his share of the balance of that general account when John arrives at age, will be paid to him. But by that mode of stating the accounts, you will see that if one child has been more extravagant, or if the education and expenses of one have been more than another, the latter contributes to pay an equal share of the surplus of the expenses of the former, which is manifestly unjust. Unless, therefore, the wording of the wills of Mr. Ray and Mrs. Everson, require the accounts to be jointly stated, the first method above mentioned, ought, in my opinion, to be adopted. If one will requires one method, and the other will another method of stating the accounts of the respective estates, they must be settled accordingly.

This suggestion, as to the mode of accounting, to a gentleman so much more conversant with the settlement of Estates, and so much better vested in accounts that I can pretend to be, may appear to you rather officious and unnecessary. But I trust you will pardon the intimation, when you are informed that I know the accounts of several estates have of late years been stated and closed in the mode last above mentioned; and you must believe there can exist no other motive for my making the suggestion than to lead to the adjustment of John's account, upon such principles that should it happen (I hope it will not) that Elsie should marry under age, to a person disagreeable to you, or who may be captious or critical in the closing of her account, there may be no advantage taken of you or your children, and no necessity to incur the trouble and expence of any chancery or other suits.

Although the inclination of my opinion is that the method of stating the accounts separately, is the one required by the terms of the different wills, yet I think that your own safety and the care and trouble you have taken in the business, as well as the risk you may run in paying to John or to either of your own children, the balance of the accounts stated upon an erroneous principle, will not only justify, but require the taking the written opinion of good counsel upon that point at the expense of the Estates. When I speak of paying one of your own children a wrong balance, you must not suppose that I apprehend any difficulty would happen during your life; but in case of your death, leaving minors, the Guardians of those minors would be bound, as a matter of duty, to call me into Chancery as surviving executor, if the account of one child had [been] previously adjusted

and paid to the prejudice of the minors, with ever so good motives, and that would not only subject me to unnecessary trouble, but put the estate to expense which it would be well to avoid by adopting the true principle now.

I have broken the ice with Mr. Henry as to the fee paid for James Ray. His answer to my letter on that subject is enclosed. The principles of apportionment which he requests you to point out, in case your opinion be not changed by the reasons he assigns, are to be met with in the authorities cited below, which any gentleman of the law will furnish to you and which you will perfectly understand, without the assistance of a Lawyer, and can frame your letter accordingly. Besides, common sense will enable you to decide upon the question and alledged reasons without adverting to any law or decisions of courts upon the subject. As I have not entered into any discussion or argument with Mr. Henry upon this subject, I wish that your letter in answer to the enclosed may be addressed immediately to him.

THE GOVERNOR TO JOHN MURRAY ANENT THE JOHNSON MURDER CASE.

Albany, Jany. 21, 1811.

Respected Sir: Chief Justice Kent has this day enclosed to me your letters. He had previously reported the facts in both cases and expressed the opinion of the court upon them, which was, that Johnson and Sinclair were both properly convicted of murder. It was of course unnecessary for him to accompany your letters with any opinion unless his mind had changed since he made the official report, and I presume from his silence on this occasion, no such change has taken place.

Although your letters are not directed to me, I deem it a duty in consequence of their having been laid before me to answer them.

A conviction before a Court, consisting of able Judges, and by a respectable Jury, with which conviction Court and Jury continue, upon reflection, to be perfectly satisfied, ought not to be readily arrested.

But I must confess, that my own opinion coincides with theirs, after a very deliberate examination of the cases as reported to me. Altho' I am individually willing to abolish the punishment of Death, yet as the law inflicts that punishment for the crime of murder, and as the constitution makes it the Sworn duty of the Governor to see that the laws are executed, I cannot, in a case, which in opinion of the Court and Jury, and in my own opinion amounts to that crime, dispense with the execution of the law, without censurable weakness and a violation of my official duty.

John Murray, Junior.

THE GOVERNOR ADDRESSES THE LEGISLATURE ON THE EVENTS OF
THE DAY.

Gentlemen of the Senate and of the Assembly,

In addressing you for the first time, since my re-election to the executive department, permit me to express my gratitude for the recent proof of confidence which has been manifested towards me, and to renew the assurance, that my best efforts shall be devoted to a faithful discharge of the important trust.

It would have afforded me sincere gratification to have been enabled to announce to you, on this occasion, such a favorable change in our foreign relations, as the justice of our claims and the impartial and pacific attitude we have uniformly maintained, authorised us to anticipate.

Pursuant to the powers vested by law in the president of the United States, he has notified, by proclamation, the revocation of the French decrees violating our neutral commerce. This auspicious and important event, has not, however, been accompanied by the restoration of the American property which had been previously seized and confiscated in the ports of France, and in those under her control.

The British orders in council, which had for their basis the obnoxious decrees of Berlin and Milan, and which purported to be merely retaliatory, have not yet been annulled, notwithstanding the solemn official assurance that they would be abandoned whenever France retracted her decrees. Instead of giving us a friendly intimation that this assurance would be executed with good faith, the British Secretary, in his correspondence of August last, with our minister, has superadded the additional preliminary of the restoration of neutral commerce to the condition in which it stood at the promulgation of the French decrees.

The interposition of this vague and impracticable condition, and the unsatisfactory import of the correspondence of that government generally, preclude the hope of our obtaining a relinquishment of the British orders upon any acceptable or honorable terms. We have also little reason to expect any adequate atonement for the insults and injuries received from that quarter. The correspondence which has taken place during the last year with both governments, has been laid before the public, and amply refutes the illiberal imputation of partiality in the administration towards either of the belligerents. We have always had the best reasons for reposing the utmost confidence in the wisdom and virtue of our national administration: and I cannot hesitate to believe that every American, who has not transferred his affections to a foreign government, will feel the same patriotic sentiment, after a candid and impartial examination of that correspondence; and when he reflects that the departure of both belligerents from all the maxims of national law has been so palpable and uniform, that they themselves have ceased to attempt a justification by those maxims, but resort to trite and fallacious subterfuges to extenuate their atrocities, he will not find it possible to reconcile himself to a justification of their accumulated insults and injuries; nor will his judgment, his feelings or his duty permit him to clamour against the measures, or to violate the laws of his own government. What course will be deemed by our national rulers the most expedient for the present emergency I shall not venture to predict; but whether the prohibition of intercourse, or measures of a more energetic complexion be adopted, I trust every good citizen will reflect that patriotism, morality, and the precepts of religion enjoin on him obedience and support.

The precarious situation of foreign commerce, and a retrospective view of the multiplied violations of our sovereignty and neutral rights, render the astonishing progress which has been made in the improvement and extension of domestic manufactures, a source of lively satisfaction. A beneficent providence has endowed our country with an abundant supply of raw materials of every description, and our citizens are eminently distinguished for persevering industry and for great ingenuity in all mechanical arts. The returns of the census recently taken prove not only the unexampled increase of population in the United States, but furnish also evidence of the flourishing condition of our manufactures. Let us extend to them the utmost encouragement and protection which our finances will admit, and we shall soon convince the belligerents of Europe, to whom we have been extensive and profitable customers, that their mad and unjust policy towards us, will ultimately recoil upon themselves, by giving to our industry, our resources and our policy, a new direction calculated to render us really independent.

In recurring to the local events which have intervened since the last session of the legislature, I notice with much sorrow, the death of the late lieutenant governor of this state. That distinguished patriot and citizen departed this life soon after he had experienced a flattering testimony of the continued confidence and affection of his fellow citizens. It is not for me here to detail the history of his long and useful life, or to pronounce his eulogy. But I owe it to private friendship and to the intimacy of our official relations, to say, that my late venerable associate, rendered to his country eminent services in the great variety of public stations in which he was called; and what sheds still brighter lustre on his memory, he merited and

attained the rare felicity of being universally respected and esteemed in private life, for benevolence integrity and exemplary piety. Whether that part of the constitution which guards against a vacancy in the executive chair, does not point out the expediency and necessity of legislative provision for the choice of a successor in cases like the present at the succeeding anniversary election, is submitted to your wisdom.

In the last public communication which I had the honor of making to the legislature, the propriety of adopting preparatory arrangements, for a revision of the statutes of this state, was suggested for their consideration. You must indulge me in again inviting your attention to that subject. A hope that you will concur with me in the expediency of a revision of the laws, has induced me to dispense with proposing sundry needful alterations in particular statutes.

An account of the proceedings which have taken place in the erection of frontier arsenals, the purchase of small arms, ordnance and ammunition, the erection of fortifications, and the expenditure of several specific appropriations, is reserved for the subject of a special communication.

I am informed that the report of the commissioners appointed to explore the westerly parts of this state, with a view to ascertain the practicability and probable expense of canal communication between the waters of the Hudson and Lake Erie, will shortly be presented to you. The importance of that subject highly merits, and I doubt not will receive your early and serious attention.

The mode of applying the fund set apart for the encouragement of common schools, and the means of adding to the liberal patronage which has been already extended for the promotion

of learning and the consequent advancement of the cause of morality and religion, will form part of the interesting matters which ought to attract your notice.

Gentlemen, Notwithstanding the difficulties we have encountered, and the losses we have experienced during the sanguinary and desolating wars of the old world, yet we have reason to rejoice that we are this day a prosperous and happy people. With a firm reliance upon that Providence which has conducted us to liberty and to independence, let us rise above all improper considerations, and devote ourselves with one heart and one mind to the important duties before us. May all our deliberations be conducted with harmony and wisdom; and may they terminate in the advancement of the public welfare.

Albany, January 29, 1811.

THE GOVERNOR TO MORGAN LEWIS IN RELATION TO LANDS FOR
FORTIFICATIONS AND THE AGITATION TO MOVE THE WEST POINT
ACADEMY.

Albany, 26 Feby., 1811.

Sir: In answer to your note of last evening, I beg leave to observe, that the Statutes to which you allude, do relate to a *part* of the lands contemplated in my communication to the Senate, of the 11th instant. At the time the law of 20th March 1807 was enacted, the State owned about 25 acres at Bluff Point, which by the last section of that act, were granted to the United States. The authority of the Commissioners created by that act, extended to a cession of *Jurisdiction* only, and not to the conveyance of title. By a supplementary law, passed 18th March 1808, the authority was enlarged as to Jurisdiction, and

they were also empowered to grant the *title* of certain lands under water, &c. but the authority there conferred, does not extend to lands on Staten Island. The title of the 25 acres granted by the last section of the act of 1808 has never been accepted by the United States, nor has the cession of the Jurisdiction thereof been required of the Commissioners; in consequence of which the Legislature resumed the controul of the before mentioned twenty five acres, with the knowledge and approbation of the President and Secretary of War, have subsequently directed the purchase of an additional twenty five acres (Vid. Pub. laws 1809 page 18) and the sum of Eighty thousand dollars has been expended in fortifications thereon. Even admitting that the Commissioners created by the acts of 1807, and 1808, ever had the power to cede the title of lands on Staten Island, the above circumstances and proceedings would amount to a virtual revocation of such power, and it might also be questioned whether the power there given will extend to lands purchased subsequently thereto. My own opinion is that those Commissioners never had the power to grant the *title* of any lands whatever on Staten Island.

The answer of the Commissioners to the recent application of Col. Williams together, with all the correspondence on the subject will be handed to you with this letter; they were handed to Genl. Wilkin on the same morning the message was sent, with a request that he would hand them to the person who might be appointed chairman of the committee, but the request escaped his memory.

Col. Williams has for some time past, entertained a decided opinion, that the military Academy of the United States ought to be, and would probably be removed from West Point, and

that Staten Island is the most eligible scite for that Institution; by which arrangement we should not only retain the advantages of that Seminary within our State, but the Institution there, would accommodate the Navy as well as the Army. The Bill for the establishment and endowment of the Academy has passed the Senate of the U. S. leaving the site discretionary with the President, and Col. Williams is of opinion, as you will observe by his letters, that unless some measures are taken by the Legislature of this State, to empower persons to negotiate the terms of a transfer as well in the recess of the Legislature as at other times, in case the President shall deem Staten Island a suitable place for the Academy, it will be wholly withdrawn from this State, and permanently established and endowed at the City of Washington, or at Carlisle in Pennsylvania. The propriety of complying with his request, induced me to make the Communication to the Senate on the 11th Instant.

Should there be any other information or papers which are in my power requested by the committee, it will afford me great pleasure to convey them to you.

The Honb. Morgan Lewis.

THE GOVERNOR TO COLONEL JOHNSON ON THE LIABILITY OF JUDGES
OF THE COURT OF COMMON PLEAS TO PERFORM MILITARY DUTY.

Albany, March 9, 1811.

D'r Sir: I have been desired to communicate to you my opinion relative to the liability of the Judges of the Court of Common Pleas to perform military duty.

The XIII Section of the law passed 29th March 1809, exempts all *Judicial* officers. The II section of the amendatory law

passed 2d April 1810, subjects *Justices of the Peace*, not otherwise exempted, to militia duty. Of course all other *Judicial* officers than Justices of the Peace, remain exempted by the first section above mentioned. It cannot be questioned that the office of a Judge of the Court of Common Pleas is a *Judicial one*, nor is that office by any means embraced by the term "*justices of the Peace*." The latter are never named in the County Court commission, have no jurisdiction in matters appertaining to that Court, nor have they any right or authority to sit there. The judges and Assistant Justices derive their authority, as such, from a separate and distinct commission from that of the peace, by which commission they are distinguished by a different name and endowed with other *Judicial* powers and subjected to other judicial duties than those which appertain to mere justices of the peace, and are therefore in my opinion expressly exempted by the 13th section of the law passed 29th March 1809.

Lt. Col. Jeremiah Johnson.

THE GOVERNOR AND THE CASE OF CAPTAIN FELT.

Albany, March 27, 1811.

D^r Sir: Your returns for promotion has been passed by the Council, with the exception of the appointment of Capt. Felt, who was removed last year. The omission to appoint him did not proceed from want of confidence in your representations, but as he did not appear to know, on what grounds he had been removed, we thought it best to inform him by sending copies of the petitions against him, to the end that he might obviate the representations contained in them by the summer session

of the Council, at which time he will be restored with his former rank, if it shall appear proper.

These petitions were presented last year, and I objected to the Councils acting upon them, when the petitioners had a legal and proper remedy by Court of Inquiry or Court Martial, if Captain Felt has conducted in a disgraceful or degrading manner. But as in other cases, my advice was little attended to, and without any notice to Captain Felt of the cause of his intended removal, the petitions were given to the Adjutant General, who, as appears by an indorsement in his hand writing, referred the petition to the members from the County, or one of them, and he has endorsed "referred to the members; they recommend this removal" and accordingly he was removed, without hearing, or notice of any complaint. Many of the names to the petition are in one hand writing, and some of them so obscurely written, that my Secretary may have copied them erroneously. I will thank you to give the copies to Capt. Felt, and he will be able from them to ascertain what part Mr. Buckley has acted in the business; and will also be enabled to forward such information upon the subject, as may justify the Council in restoring him.

Permit me to mention here a subject which I should have explained, had I seen you in Albany. You addressed a note to me apologizing for your not being prepared to make your military returns, and at the conclusion, in a few words, suggested the propriety of postponing the appointment of Sheriff for a short time. These words in the hurry of reading and filing my papers at that period of the session, escaped my observation, as I supposed the whole letter to be on military subjects, and I did not observe them until after the appointment was

made. For which reason, your letter was not communicated to the Council, or the concluding request, made known to them in season, as it otherwise would have been.

Genl. King.

THE GOVERNOR'S MOCK THREAT TO GENERAL BROWN.

Albany, April 8, 1811.

D'r Sir: I do not recollect which of Messrs. Eselstyne's you mentioned to me as a suitable person for Surveyor at Cape Vincents, on Lake Ontario. But I have concluded with the approbation of Messrs. Hinds and Hunter to recommend Mr. John B. Eselstyne for that appointment, if he will accept it. Not knowing his address, I take the liberty of requesting that you will ascertain and inform me by the earliest conveyance whether he will accept the appointment or not. The salary is \$150 per annum, with the usual fees and commissions in addition thereto.

Please to recollect the promise you made me about Jefferson county. I shall feel disposed to degrade you to the rank of Lieutenant Colonel from that of General, unless the result be conformable to the expectations you have excited.

Genl. Jacob Brown.

THE GOVERNOR TO NEGOTIATE WITH THE SENECA INDIANS FOR THE
PURCHASE OF ISLANDS WITHIN THE STATE IN NIAGARA RIVER.

Albany, April 11, 1811.

Sir: By an act passed the last session of the Legislature of this State, I have been authorized to make such contract as I shall judge proper, with the Seneca Indians or their agents, for the purchase of the Islands within this State situate in Niagara River, between Lake Erie and the falls.

The claim of Sir John Johnson to Grand Isle I have heretofore mentioned to you. One other circumstance deserves to be mentioned. The Treaty between this Country and Great Britain establishes the territorial line to be along the middle of the water communication between Lakes Ontario and Erie. Whether these words establish as the limit of Jurisdiction, the channel of the Niagara River or a line equidistant at all places from the two shores, may become a question of litigation or for negotiation between the two governments. It will, therefore, be necessary to provide in any treaty to be made, that upon a final settlement or demarkation of that line, by commissioners or otherwise, the Islands to be purchased, or any part of them, shall fall within British Jurisdiction our payments shall cease, and the treaty from thenceforth be void.

Perhaps I may attend personally to this business in the latter part of June next, at such place as may be agreed upon. I will, therefore, thank you to inform me, whether Buffalo, Batavia, Genesee, Canandaigua, or Geneva will be most agreeable to the Seneca Indians, as the place of meeting, and whether the last of June, or beginning of July will be a convenient time for such meeting? I should prefer Buffaloe as the place of treaty, if it be equally convenient for them.

Jasper Parish, Esqr.

THE GOVERNOR FORWARDS TEN DOLLARS TO MR. SAILLY AS FINAL
PAYMENT ON THE PLATTSBURGH BARRACKS.

Albany, April 15, 1811.

D'r Sir: Your letter of the 20th Feby, with the vouchers for expenditures in erecting an Arsenal at Plattsburgh were duly received. The Balance of \$9.36 due to you, will together with

the postage of this Letter, which I intend you shall pay, amount to ten dollars, and therefore the enclosed Ten dollar bill, will balance the account.

Mr. Durand mentioned in his letter, that he paid six dollars for expresses when the militia detachment was ordered out, and that he furnished Mr. Rodman with the account and vouchers therefor, upwards of two years since. Upon my application he has searched for and found the papers. I will thank Mr. Durand to send me by mail, a receipt for the enclosed six dollars, specifying that he has received that amount of me for so much paid by him to Mr. Platt and Mr. George for warning the detachment of militia ordered into service on Lake Champlain in 1808.

Apropos, when I left Plattsburgh, there was an unsettled item for a waggon, which had been provided for me, and which item you insisted upon settling and agreed to charge it to me. As I do not see any charge therefor in our cash account, I take the liberty of reminding you of it.

A new district has been established at Oswegatchie, and the President is authorised to establish a port, with a Surveyor to attend it, further down the River towards St. Regis. It is possible my opinion may be asked by the Secretary of the Treasury as to the proper point for such port, and I shall therefore be greatly obliged, by receiving information and advice on the subject from you.

Please to present my sentiments of great respect and esteem to Mrs. Sailley, and the rest of your amiable family, not forgetting my friend Capt. Frederick.

The Honble. Peter Sailley.

THE GOVERNOR SUGGESTS THE NAME OF A POSTMASTER AT MAYFIELD.

Albany, April 16, 1811.

Sir: Understanding that there is a propriety and indeed a necessity, for establishing a Post office at the village of Mayfield, in Chautauqua, at the head of Chautauqua Lake, it is probable the expense of carrying the mail from the present Post Road to Mayville, (about seven miles) will be very inconsiderable, and when the great Road leading from Hudson's River to Presque Isle, is completed or opened, which road is now opened to Angelica in Allegany county, Mayville will undoubtedly be the position for a Post office. Should you assent to the establishment of a Post office there, I beg leave to mention Casper Rouse, Esquire, of that village, as a very proper person, both in point of integrity and other qualifications to be Post Master. He is liberally educated, and pursues the profession of an Attorney in the village of Mayville.

The Honble. Gideon Granger.

THE GOVERNOR ASKS THE ATTORNEY GENERAL FOR AN OPINION ON
AN INDIAN MATTER.

Albany, April 17, 1811.

D'r Sir: Enclosed you will receive an extract from a law passed March 29, 1811, entitled "An act for the benefit of the Onondaga tribe of Indians, and for other purposes" and a copy of the entry on Record of the treaty or grant by the Oneida Indians to the New England Indians of the lands which the Brothertown and New Stockbridge Indians now occupy.

I will thank you for an official opinion whether upon the construction of the Indian grant, the New-Stockbridge and Brother-

town Indians have the right with Legislative sanction, to alienate those lands to the State, although not to individuals, or whether the cession merely grants a right of occupancy, with a reversion to the Oneida Indians whenever the grantees shall remove, or cease to possess the lands described in the treaty or grant?

The performance of the duties contemplated by the within section of the law, above mentioned, makes it necessary that I should be possessed of the accurate legal operation of the present title before I enter upon my negotiation about it with the Oneidas.

Please to present Mrs. Tompkin's and my respects to Mrs. Hildreth, and accept my sincere wishes for a restoration of your health.

Matthias B. Hildreth, Esqr. Attorney General, &c.

Documents enclosed in the preceding Letter.

Copy. " By Guy Johnson Esquire, Superintendent of Indian affairs for the Northern Department of North America, &c. &c.

Whereas, the Indians of Mohegan, Narragansett, Montock, Pequots of Groton, and of Stonington, Nahantic, Farmington, inhabiting within the New-England Governments, did last year represent, that they were very much streightened and reduced to such small pittances of land, that they could no longer remain there, and did through the channel of Sir William Johnson, Bart., late Superintendent, apply to the Six Nations for some land to live on, which was at length agreed to in my presence, at the last treaty, and a tract allowed them by the Oneidas, And, Whereas, some of them have since, in company with the Oneida chiefs, viewed the land and determined on its boundary, as follows: desiring a certificate of the same, and that it might be entered on the record of foreign affairs, vizt:

Beginning at the west end of the Scaw-la-dairs, or the long Lake, which is at the head of one of the branches of Orisca creek, from thence about twelve miles northerly, or so far, that an east course, from a certain point in the first mentioned course shall intersect the road or pathway leading from Old Oneida to the German Flatts, where the said path crosses Scahindoa creek, running into the Oneida Lake, then the same course continued to the line, settled as the limits, between the province of New York and the Indians at the treaty of Fort Stanwix, in 1763, thence southerly along the said line about thirteen miles, or so far that a westerly line from thence, keeping one line south of the most southerly bend of Orisca creek, shall reach the place of beginning, so as to comprehend the lake first mentioned. I do therefore, in compliance with the joint request of the said Oneidas, and the said New England Indians, declare, that the said Oneidas do grant to the said New England Indians, and their posterity forever, without power of alienation to any subject the afore described tract, with its appurtenances, in the amplest manner. Also full liberty of hunting all sorts of game throughout the whole country of Oneidas, beaver hunting only excepted, with

this particular clause or reservation, that the same shall not be possessed by any person deemed of the said tribes, who are descended from or intermixed with negroes or mullattoes.

Given under my hand and seal at arms, Guy Park, October 4, 1774.

(signed) Guy Johnson. [Seal.]

We the Chiefs in testimony of the foregoing affix the character of our tribes, unto the day & year above mentioned.

The mark X of Cenghish—the mark of X Ugh myonge.

Turtle

Wolf

The mark of X Canadegoras

Bear

Received the 4th of February 1785 and here recorded—Test.

(signed) Geo. Willis, Secy.

A True copy from the public Records of the State of Connecticut, (Examined the 17th day of September, 1794).

By (signed) G. Willis, Secy.

Extract from An Act entitled “An Act for the Benefit of the Onondaga tribe of Indians and for other purposes, passed March 29, 1811:

“WHEREAS a claim is set up by the Oneida Nation of Indians, to the lands occupied by the Brothertown and Stockbridge Indians, And whereas several tracts of land occupied by the Brothertown and Stockbridge Indians have been sold in fee simple, under the authority of the State. And whereas the said claim is likely to create controversies and disputes between the said Indians, and will materially affect the Interests of the State. THEREFORE

Sec. 4. BE IT FURTHER ENACTED That the person administering the Government of this State, be and he is hereby authorized, to cause the said claim of the Oneida Indians to be investigated, and in case the said Oneida nation of Indians shall appear to have any just, legal, or equitable claim to the lands occupied by the said Brothertown and Stockbridge Indians, to cause the said claim to be purchased, or otherwise extinguished, and that the Treasurer, on the warrant of the Comptroller, pay to the order of the person administering the government of this State, the expenses and consideration money of such investigation & purchase.

THE GOVERNOR'S EXPLANATION OF THE FRICTION BETWEEN HIMSELF AND THE COUNCIL OF APPOINTMENT.

I certify, that on the 5th day of April 1810, three members of the then Council of Appointment (Messrs. Hall, Paris and Williams,) assumed the power of directing a meeting of the Council of Appointment, at such time and place, as they thought proper, without my consent and against my wish; and with my express and positive dissent, made an entry in the Council books, directing a meeting of the Council to be held at the Capitol in the City of Albany, on Tuesday the third day of July then next, at 11 o'clock in the forenoon, which entry was subscribed by the three members above named only. On the

above occasion, (as well as on a former occasion) the members were notified, that the power exercised by them appertained to the Executive, and had always been claimed and exercised by him accordingly. I refused to abandon the right of summoning and convening the Council, at such times and places as I deemed necessary, and proper, and protested against their proceeding above mentioned, and gave them an express assurance and notice, that if it should so happen that the Executive functions should be exercised by me on the third day of July then next I should not meet them or in any way sanction or acquiesce in their attempt to controul the Executive authority by the aforesaid proceeding.

In addition to that assurance and notice, as soon as I was officially notified of a reelection, a communication in writing, of which the annexed is a copy* was transmitted to each member of the Council, but the copy for Genl. Hall was not received by him, as I am informed, before he had left home.

General Hall called upon me in Albany on the second day of July, and was again informed that I adhered to my former determination, and should not meet the Council the next day. No meeting of the Council was, therefore, attended by me or held on the third day of July last, or at any other time during the continuance of General Hall in Albany.

THE GOVERNOR'S OPINION ON INDISCRIMINATE BOOKMAKING.

Albany, 19 April, 1811.

Sir: Yours of the 16 ulto. came to hand at a season, when the whole of my time was necessarily devoted to public duties, which must plead my apology for the delay in answering it.

*See communication of June 14, 1810, page 286.

As I have not the pleasure of being acquainted with you, or with the merits or usefulness of the book which you design to publish, I cannot with propriety give a positive answer to your request, until I may be favored with a perusal of the performance, or be furnished with satisfactory evidence of its probable importance or usefulness.

Whilst on the one hand, I am disposed to encourage the publication of interesting works, and to patronize as far as my limited capacity extends, the efforts of learning, experience and genius, I am equally averse, on the other, to promote that system of bookmaking, without regard to the merits of the work, or its utility to community which has of late become so universal as to become a public grievance.

You will not, therefore, I hope, be surprised or displeased at declining to approve of the dedication you propose (until I may be favored with a perusal, or with some other evidence of the probable public utility of the production).

Mr. John Stewart.

THE GOVERNOR RECOMMENDS TO MR. SECRETARY GALLATIN JOHN B. ESELSTYNE FOR SURVEYOR AT CAPE VINCENT.

New York, 14 May, 1811.

Sir: Upon enquiry, I find that John B. Eselstyne, residing at or near Cape St. Vincent, on Lake Ontario, is a suitable and proper character for Surveyor at that place, and I recommend him accordingly. He resides in the town of Brownville, Jefferson County.

I am not sufficiently acquainted with the district of country, on the St. Lawrence, to determine which will be the most proper place between Ogdensburgh and St. Regis, for a Port. My

friends, who have been consulted on the subject, seem equally at a loss. If no public inconvenience will result from a little delay in that business, experience will enable Mr. Richards and Mr. Saille, in a short time, to point out the most important place.

The Honbl. Albert Gallatin.

THE GOVERNOR TO SECRETARY OF WAR EUSTIS—CEDING LAND ON
STATEN ISLAND TO THE GOVERNMENT FOR FORTIFICATIONS.

Albany, 16 August, 1811.

Sir: During the last session of the Legislature of this State, an act was passed, authorizing certain officers to cede the public land and fortifications on Staten Island to the United States. This authority was given in consequence of a Bill, then depending before Congress, for the removal of the Military Academy from its present situation, and under the hope that in the event of fixing a different site in the bill or of leaving the selection of it to the discretion of the President, Staten Island might be deemed the most suitable place.

Although the bill did not succeed, it is probable the subject will be revived at the approaching session of Congress, for which reason, I take the liberty of transmitting to you, a copy of our law and beg leave to observe, that should you desire any further information, previously to the commencement of the Session, relative to the terms of the transfer &c. I will with pleasure convene the commissioners, ascertain their sentiments, and communicate the result to you.

The Honbl. Wm. Eustis.

BRIGADIER GENERAL PAUL TODD MADE A MAJOR GENERAL.

Albany, April 22, 1811.

Sir: You will perceive by the enclosed general order that I have been making you a major general without your knowledge or solicitation. There will be in the brigade of Genl. Swits as now established two brigade majors and one brigade quartermaster.

As the rank of the brigade inspector and that of aid to a major general is the same, I have to request that you will appoint one of the brigade inspectors (Major Williams and Major Holland of Schenectady) your aid and return him accordingly to be commissioned on the first Tuesday in June and direct the other to perform the duties of brigade inspector in Col. Swits's brigade.

Genl. Paul Todd.

THE GOVERNOR WRITES TO MR. SECRETARY MONROE IN BEHALF OF
CLARK, PRISONER ON A BRITISH SHIP.

New York, June 1, 1811.

Sir: Arminius Clark, an American citizen, who has been a long time prisoner at Plymouth, England has written to his parents in this country praying them to take measures to obtain his release. At the request of his father, I take the liberty of apprising you of the situation of Clark and of requesting you to have the goodness to take such measures as you may deem proper in order to have him liberated. Clark it is said had been a prisoner a long time in France, and finding no opportunity of returning to his country, embarked by the advice of our Consul at Bayonne on board a French ship for the Isle of France, which ship was taken by the English. He, with the

rest of the crew, were taken to Plymouth where he has remained ever since, a prisoner on board the Prison-ship St. Nicholas.

I am persuaded that the bare mention of Clark's situation is sufficient to insure your kind exertions in his behalf.

The Honbl. James Monroe.

THE GOVERNOR TO JOHN VAN NESS YATES—RESIGNATION OF A PUBLIC OFFICER.

New York, June 26, 1811.

Sir: The letter of Judge Moore, Justice Wands and yourself, and also the communication to which that letter relates signed by the Mayor, yourself and others, have been duly received. Upon reflection it will probably occur to you that both of those papers were unnecessary. No officer can divest himself when he pleases, of the duties to which his station subjects him; nor can the Governor alone accept the resignation of or release a civil officer from the obligation which his office imposes upon him. A resignation is addressed to the Governor as President of the Council to be laid before them for their acceptance; & untill the officer wishing to resign is advised of the acceptance by the council of such resignation his acts are as legal & his duties as perfect and incumbent on him as they were before the filing of the resignation with the Governor. The Resignation which Judge Ten Eyck transmitted to me was, as he knew, after the adjournment of the council and after it had become impracticable to accept it or to fill the vacancy untill the council was again convened. He was, therefore, as much bound to attend the court of the 18th instant as if he had not conveyed to me a resignation; and he is still in my opinion bound to act untill it is accepted and an entry thereof made upon the minutes

of the council. But even supposing the matter to be otherwise and the power of accepting or declining to accept the resignation of a civil officer to be vested in the Governor, alone, yet you must be sensible that I could not regard the request by third persons, to withhold the resignation of a first judge, which request it does not appear that he signed or otherwise assented to in writing, as sufficient to control the anterior written and solemn acts of the party himself. In this view of the subject it will occur to you that the resignation having been received and filed with the papers to be laid before the Council ought to be and must be laid before them accordingly notwithstanding any communications I may have received upon the subject.

If to escape a disagreeable duty an officer could transmit his resignation to the Governor, and thereby excuse himself from some highly responsible or disagreeable duty of his office, and thereby impose it on others; and could then withdraw the resignation at his own pleasure, the consequence might be very injurious to his brother officers and to the publick.

It appears to me that a resignation duly signed and delivered to the Governor for the purpose of being laid before the council is irrevocable by any one without the assent and approbation of the council of appointment, for whose acceptance it is intended, and by that rule I shall govern my conduct in this case.

Jno. V. N. Yates, Esquire.

THE GOVERNOR AND THE COMMISSION TO LAY OUT THE BLACK RIVER
AND SACKET HARBOR TURNPIKE ROADS.

New York, June 27, 1811.

D Sir: Sometime in May last I received a recommendation for the appointment of the within named commissioners and

soon after received a communication begging me to be carefull about the appointment and desiring me to appoint men who in laying out the roads would not be influenced by certain large land holders and land agents who, it was perhaps supposed, had selfish and sinister views to gratify in laying out the same. Not being acquainted personally with any of the three gentlemen, except yourself I take the liberty of enclosing the appointment to you with an intimation of the interest and anxiety which has been manifested by the inhabitants in that quarter of the country about the commissioners, that they may be the more cautious and circumspect about committing themselves hastily as to any part of the duties incumbent on them.

By the mail which conveys this, I have notified Ethel Bronson, Esqr. of Rutland, Jefferson County, and Joseph Clark, Esqr. of Watertown in the same county, that the commission has been inclosed to you.

Charles C. Broadhead, Esq.

New York, June 27, 1811.

D Sir: By the same mail which conveys this I have transmitted to Charles C. Broadhead of Utica, a commission for himself and two others to lay out the Black River and Sackets Harbour Turnpike Roads and have also sent to Mr. Bronson of Rutland, notice thereof. Lest the letter to him might miscarry or be retarded by the course of the mail, I take the liberty of informing you also thereof; and as your name was subscribed to the recommendation, according to my best recollection, I presume you feel an interest in the appointment and will communicate the intelligence of it to those concerned as soon as may be convenient.

Joseph Clark, Esqr.

New York, June 27, 1811.

Sir: I take the liberty of mentioning to you that my forbearance with respect to the appointment of commissioners to lay out the Sackets Harbour and Black River turnpike roads has arisen from a communication received a few days after the recommendation of Mr. Broadhead and others, begging me to be carefull and circumspect in that appointment. The signers of the communication were respectable men, but were unacquainted with the recommendation that had been made by yourself and others. I was acquainted with none of the persons named except Mr. Broadhead, of whom I approved. I have since learned that Mr. Sherman is brother to Capt. Sherman of Albany, and if he is as clever a fellow as his brother, the captain, there can be no doubt of his being a very suitable person. The respectable signatures to the recommendation leaves little doubt that Mr. Wager is equally suitable. I have therefore by the mail which conveys this letter inclosed the commission for those three gentlemen to Mr. Broadhead.

Ethel Bronson, Esqr.

GOVERNOR TOMPKINS ACKNOWLEDGES THE PRESENT OF SADDLE
EQUIPMENT.

New York, June 29, 1811.

Dear Sir: I accept with grateful sensations your kind present of an Elegant Military Bridle, crouper and Breast Plate. To an assurance that I shall preserve this valuable testimonial of your regard with pride and satisfaction, permit to add a declaration of my sincere friendship and esteem and an ardent wish for your prosperity and happiness.

Mr. Gilbert Haight.

ESTABLISHING THE CITIZENSHIP OF CLARK, THE PRISONER.

New York, July 1, 1811.

Sir: Pursuant to your intimation, the friends of Armenius Clark have procured the within documents to establish his citizenship. I beg leave to add, that I was acquainted with the grandfather and father of this boy nearly twenty years ago. They lived about five miles from the residence of my father in Westchester County. I have also been acquainted with Mr. Ebenezer S. Burling, whose affirmation is inclosed, since the year 1783 and beg leave to assure you that he is a man of unquestionable respectability & veracity.

The Hon. James Monroe.

THE GOVERNOR TO DR. DE WITT REGARDING A LOAN MADE FOR THE
COLLEGE OF PHYSICIANS AND SURGEONS.

New York, July 9, 1811.

D Sir: I have been repeatedly requested by some of the gentlemen who stand bound to the Manhattan Bank for the loan made to the College of Physicians and Surgeons to cause the money payable out of the proceeds of the Lottery now drawing to be applied to the payment of their note according to the resolution of the Regents. As I shall be absent from this day untill after the first of August, when the note becomes due, it will not be in my power to pay attention to their request: but as you [are] both a manager of the Lottery and a conspicuous officer in the College, I take the liberty of requesting your exertions to have the \$5000 seasonably deposited and applied to the payment of their note. Should this source of payment fail by reason of the non-payment of the Lottery money by the first

of August, I beg leave to suggest whether the présent parties ought not to be exonerated from a renewal of the security and whether some of those who now controul the Institution and fill its offices ought not to assume the debt in their stead. For as some of the former consider themselves crowded out of the Institution by the arrangements of last winter the latter cannot I think with honour permit them to be loaded with a renewed responsibility for the debts of an Institution from which they have withdrawn under such an impression.

Dr. Benjamin De Witt.

THE GOVERNOR BELIEVES IN CASE OF HOSTILITIES THE SEA COAST
WILL RECEIVE THE FIRST BLOW.

New York, September 9, 1811.

Dear Sir: Your letter of the 9th instant, together with the previous one therein refered to, have been duly received. On my way through Utica I mentioned to Mr. Bloodgood and desired him to inform you, that, with respect to the lot of land which you were desirous of purchasing at Oswego and the lease of the publick ground, application must be made to the Surveyor General. The Governor tho' nominally a member of the Land Office, has scarcely ever attended their meetings since a law of 7 or 8 years ago which excused his attendance.

With respect to the mode of fortifying the port of Oswego, it rests with the General Government to decide, and I venture to predict that the inhabitants will be seasonably apprised of Danger and protected against it. I am at present unadvised whether the cannon at Oswego and in the River belong to the United States or this state, but as soon as I can see the com-

.

missary of Military stores arrangements shall be made to have them taken up and equiped when he visits that post in October next if they belong to us. I beg you to rest assured that I am not inattentive to the situation of our Frontier brethren, but I feel satisfied that I shall receive timely notice from the General Government of any apprehended hostility and receive the requisite authority and power; and from that moment the inhabitants may rest satisfied no exertions of mine shall be wanting to secure and defend them. I feel no doubt, however, that as between Canada and ourselves there is no danger of their commencing hostilities. The sea coast, will, I think, experience the first injury.

Nathan Sage.

THE GOVERNOR EXPRESSES HIS THANKS TO CAPTAIN FERRIS AND HIS
COMPANY FOR VOLUNTEERING.

New York, Sept. 25, 1811.

Sir: I have the honor to acknowledge the receipt of your communication tendering the services of the officers and soldiers of the company of Artillery under your command for the defence of their country.

It is to be hoped, notwithstanding the present unpropitious aspect of our foreign relations, that the wisdom of our National rulers and a returning sense of justice on the part of those nations which have wronged us, will prevent the necessity of an appeal to the sword. But should this hope prove fallacious I shall be proud to avail our country of the patriotic tender made by the company under your command.

I pray you, Sir, to present to your company the thanks of the state for their tender of services, and to accept for yourself the assurance of my high regard.

To Capt. Josiah Ferris.

THE GOVERNOR ASKS THE ATTORNEY GENERAL TO LOOK AFTER THE STATE'S INTERESTS IN REGARD TO SALT LAND TITLES.

New York, Sept. 25, 1811.

Dear Sir: You may recollect that by a Law of 1810 Commissioners were appointed to hear and report upon controverted titles to salt lots at Salina. The object of the appointment was to bring to light and defeat certain unfair proceedings which were supposed to have been practised in leasing some of the publick lands; by the conformation of which leases, the interest of the State will be materially impaired. It has occurred to me that the commissioners cannot with propriety look up and introduce *ex parte* evidence, and that, therefore, unless there be some one to represent and advocate before them the cause of the publick, the interest of the State may materially suffer; and I, therefore, feel it my indispensable duty to advise and recommend that yourself, Mr. Williams, of Utica, or Genl. King, of Hamilton, attend the meeting of the commissioners, which takes place at Salina on the 9th of October now next, to arrange and produce the evidence on the part of the State, and to advance and maintain such principles of Law and Equity as will exonerate the State from the confirmation of the leases which may have been given contrary to the letter and spirit of the law, and under suspicious circumstances as to the motives of Superintendant and

Lessees. I am aware that it is not within the scope of my authority to require the attendance of the Attorney General or of any district attorney upon the above occasion. But if the subject appears to them as important as it does to me, involving the interest of the state to a great extent, I flatter myself they will cheerfully attend to the above recommendation. I cannot doubt, that the Legislature will readily make provision for remunerating the person who may attend the commissioners in behalf of the state: but if they should not, I will make him a compensation out of the contingent fund. Should the state of your health, or the situation of your official concerns, prevent your personal attendance, I beg that you without delay communicate with Messrs. Williams and King and procure the attendance of one of them. The present superintendant, Messrs. Sanford, Depeny and Munroe or Mooney, who were appointed in 1809; or Mr. Hopper &c will upon application afford all needfull information; or it may be acquired from Erastus Clark, Esquire, who has thoroughly investigated the facts.

Mathias B. Hildreth.

THE GOVERNOR ACKNOWLEDGES THE RECEIPT OF COURTESIES FROM
MASSACHUSETTS.

New York, October 8, 1811.

Sir: I have the honor to acknowledge the receipt of a box containing laws, &c of the State of Massachusetts, which I shall forward without delay to Elisha Jenkins, Esquire, secretary of this state in Albany, together with a copy of the memorandum subjoined to your letter addressed to the Lieutenant Governor of this state.

I have no doubt Mr. Jenkins will cheerfully send you all the laws of this state, with which you have not already been furnished, soon after the next meeting of our Legislature.

Benjamin Homans, Esquire.

THE GOVERNOR INFORMS MR. SAGE HE CAN ONLY ORDER TROOPS TO PROTECT GOVERNMENT PROPERTY AT THE DIRECTION OF THE PRESIDENT.

New York, Oct. 24, 1811.

Sir: Your letter of the 10th instant came to hand upwards of a week ago, but I have been indisposed in the meantime at my wife's father's* about two miles from Town. I presume your best method of obtaining aid to enforce the laws is to address yourself to the Secretary of the Treasury, as it seems you have done. Should the President, upon his representation, deem it proper to direct me to detach and order into service a sufficient portion of the militia of the state to sustain the collector in the performance of his duty, I shall obey it with promptitude and pleasure. Without such direction or authority from the President it is not my province to interfere in the execution of the Revenue laws, unless indeed the resistance to the Laws or the state of things at any port should amount to the legal definition of Insurrection; in which event the Militia law for the state empowers the Governor to interpose his authority without the sanction of the President.

Nathan Sage, Esqr.

*The Governor's father-in-law was Mangle Minthorne, one of New York's merchant princes.

THE GOVERNOR TO MR. WERNER, RELATIVE TO CAVALRY AND ARTILLERY EQUIPMENT.

New York, Novr. 12, 1811.

Sir: The cavalry and Artillery of this state supply themselves with swords and other equipments, for which reason no authority has ever been conferred on the Executive to provide those articles for the publick stores.—Of course no engagement for manufacturing them can be entered into by me at present.

Mr. James Werner.

MR. SECRETARY GALLATIN APPROVES THE BILL OF MR. ASA WELLS.

New York, Nov. 17, 1811.

D Sir: Pursuant to promise, I transmitted the account of Mr. Asa Wells to the Treasury Department and am happy to inform you that the whole of it has been allowed, and that I am now authorised to pay it. You will see by the letter of Mr. Gallatin that the money has not been transmitted to me, but I will, nevertheless, pay the ballance upon the production of Mr. Wells's receipt, or that of his assignee. I presume he has never made any formal written assignment to any one; and I, therefore, advise you to send immediately to him for a receipt. He must sign two copies, and for his further information I subjoin the form of a receipt and a copy of Mr. Gallatin's letter to me. I shall probably be in Albany with my family by the time you receive an answer from Mr. Wells.

Mr. Warren.

“Received Nov. 1811 from the United States, through the Treasury Department, two hundred and six dollars, being the amount of two accounts rendered by me to the said department,

for expences incurred in defence of ten law suits brought against me for acts done in the discharge of my duty as commanding officer of part of a detachment of the militia of the state of New York, in the service of the U. S. and stationed at Oswego in 1808 to aid in enforcing the Embargo Laws; for which sum I have signed duplicate receipts.

Witnesses

Asa Wells "

Copy of Mr. Gallatin's letter.

Treasury Department,

Nov. 12, 1811.

Sir: I have had the honor of receiving your letter of the 31st ultimo enclosing two accounts of Asa Wells, for expences incurred in defending sundry suits brought against him for acts committed in the discharge of his duty as commanding officer of a detachment of militia stationed at Oswego, in 1808 for the enforcing of the Embargo Laws.

The charges in those accounts being considered by you to be reasonable, their amount, being two hundred and six dollars, may be paid. I have not directed the sum to be remitted to you, as it could not be done without charging you for it on the Books of the Treasury. But if you shall find it convenient to pay it and to transmit the receipt of Wells or his assignee to this department, the account will then be settled and the amount remitted to you without delay. The papers are retained as vouchers for the account when it shall be taken up for regular settlement.

I have the honor to be respectfully, Sir, Your Obt.

Albert Gallatin.

His Excellency Daniel D. Tompkins, Governor of New York, Albany.

THE GOVERNOR RECOMMENDS FREDERICK PREVOST FOR THE ARMY.

Albany December 3, 1811.

Sir: Mr. Frederick Prevost, son of Augustus Prevost, Esqr. of Rensselaerville in this county, is anxious to obtain a situation in the Army. I am not personally acquainted [with] Mr. Prevost, but have such satisfactory assurances of his intelligence and good moral character, as leave no doubt in my mind that he will make a capable and usefull officer. His age is about twenty years.

Accept, Sir, the assurance of my consideration & Esteem.

The Honorable William Eustis.

GOVERNOR TOMPKINS TO CONGRESSMAN PAULDING—VOUCHES FOR DR.

BULLUS.

Albany, Dec. 3, 1811.

Dear Sir: I am just informed by my friend Dr. Bullus that an insinuation has been propagated at Washington, by a surgeon in the navy, derogatory to his character; namely, that it is generally believed in New York that Dr. Bullus employs large sums of money in usurious speculation. I hardly need inform you that my intercourse with publick officers and others in New York (including some of the best news gatherers in Christendom) is daily and unreserved; And I pledge myself to you, that I have never heard a lisp or insinuation of any such belief or general report; nor do I believe that the story in circulation at Washington has any foundation in truth. I have little doubt, notwithstanding your opportunities of becoming acquainted with such a report, were it generally prevalent in New York, no such imputation has come to your knowledge, and I, therefore, hope you will feel authorised and disposed to contradict the injurious calumny.

I arrived at this place, with all my family in good health, on Saturday, after an agreeable passage of two days. May your journey to Washington have been equally comfortable and pleasant, and may you feel as well reconciled to sojourn in and enjoy the amusements, the splendor, the honors, and the society of Washington for four months to come, as I do to partake in those of this renowned city of Albany for the same period.

The non-intercourse between the members of Congress and their constituents has been thus far rigidly executed; but I hope it will not be perpetual and that I may yet have the satisfaction

of receiving a letter from some of the New York delegation before their adjournment.

If they mean to change the attitude of the United States, we fighting men ought to be seasonably apprised of it, that we may muster up our courage, brush our beavers and grind our swords. Apropos: If you hear any enquiry about northern or Eastern Governors to be employed in assisting Governor Harrison in the Miami-war, please to drop a hint that there is a Governor of a certain large state, who, with his adjutant General,* and all the rest of his staff, will fight till there is nothing left of them but their toe-nails!

The Honbl. Wm. Paulding, junr.

P. S. Not knowing at present whether you wish returns like the enclosed to be forwarded to you or retained here, I send this to Washington with a request to be informed whether similar ones in future must be sent on, or whether there be any memorandum here of those received before you left home upon which I can enter the future returns.

HE EXPRESSES FAITH IN HIS INNOCENCE TO DR. BULLUS.

Albany, Decm'r 3, 1811.

Dear Sir: I am really astonished to hear that a slander has been propagated at the city of Washington, charging you with the habitual employment of large sums of money in discounting at usurious interest. It gives me great satisfaction to assure you, that during my residence in New York for two thirds of each of the last three years, which naturally occasioned frequent

* William Paulding, Jr., was then Adjutant General of the State and member of Congress—November 4, 1811, to March 3, 1813—from one of the two New York city districts.

intercourse and conversation with all description of men there, I never heard the least insinuation of that or of any other kind prejudicial to you as a man or as an officer. Were there any foundation for the charge, I must have received some intimation or heard some hint about it; for I was in the habit of daily interviews with some of the United States, state or city officers; and frequently at Dinner and other parties, composed of persons of almost every profession and political sect where the conduct of publick agents invariably forms considerable part of the conversation. Whenever I have heard your name mentioned it has been with a respect flattering to you, and gratefull to me. I, therefore, beg you to rest satisfied of my entire belief and Conviction that the imputation is unfounded and malicious; and request that you will make any use of my knowledge and belief upon the subject which can be of service to repel the calumny.

John Bullus, Esqr.

P. S. I have not the time to prepare and forward a letter to my friend Paulding by this steam boat, but will transmit one to him by the mail of tomorrow and will likewise address a line to General Porter.

THE GOVERNOR ASSURES COLONEL CONSTANT OF HIS SUPPORT IN
ASPIRING TO BECOME GOVERNOR OF FLORIDA.

Albany, Dec. 7, 1811.

Dear Sir: Your letter has been duly received and I have attended to the subject mentioned in it so far as to solicit Gen'l Paulding and Doctor Mitchel to interest themselves in your behalf.

Should Florida be sett off into a separate Territory or Government there are few men could be placed at the head of it with greater satisfaction & pleasure to me than yourself.

There seems to be a speck of war in the Western Horison, which I dare say is not displeasing to those officers of the Army who are anxious to distinguish themselves. Opportunities of acquiring fame & promotion is the chief aliment upon which they can long subsist contentedly. My family, which now consists of a wife, six children, and myself are all well.

Col. Joseph Constant.*

THE GOVERNOR URGES MR. SECRETARY MONROE TO HASTEN THE
ADJUSTMENT OF OUR NORTHERN BOUNDARY LINES.

Albany, Dec 7, 1811.

Sir: I have had the honor to receive your communication of the 26th of Nov. last, accompanying the printed copy of the third census or enumeration of the inhabitants of the United States.

Permit me, Sir, to take this opportunity of mentioning the unsettled condition of the Boundary line between this state and Canada.

The words of the Treaty, being susceptible of several interpretations, possessions have been taken in different parts of the line upon different constructions of the Treaty. The British, however, have the advantage in this respect, they having taken and retained possession of large and valuable islands in the northeasterly part of Lake Ontario and in the River St. Lawrence, which are confessedly within the United States upon every possible construction.

Those islands are important to the United States, not only on account of the value of the land they contain, but also on

* It was not until 1821 that Florida changed flags. Andrew Jackson was appointed the first Governor.—STATE HISTORIAN.

account of their advantageous position for commanding the navigation of Lake Ontario and of the River St. Lawrence in the event of hostilities. The difficulties and embarrassments which are now experienced by the officers of this State, from the want of a more specific designation of the above mentioned boundary line than the language of the Treaty affords, are particularly detailed in a communication which I had the honor to make to the department of state during the last year. I will not, therefore, trespass upon your time further at present, than to pray the attention of Government to provide by treaty for the adjustment of our Boundary line aforesaid, by commissioners or otherwise, in case our present difficulties with the British Government should terminate amicably.

The Honorable James Monroe [Secretary of State of the U. S.].

A QUESTION OF RANK BETWEEN MAJORS FORD AND EDSALL.

Albany, Dec'r 7, 1811.

Dear Sir: In 1807, 2d Major David Ford, was promoted a Lt. Colonel over the head of first Major Edsall of St. Lawrence county. In the ensuing fall it was represented to me by Col. Ford in a letter, and was confirmed by the representation of Judge Ford the following winter, "that Edsall was apprised, when he received his commission of First Major and Ford that of Second Major, of the circumstances upon which Ford conceived himself entitled to the appointment of First Major. That upon the death of Col. Turner there became a difference, tho on Friendly Terms, between Ford & Edsall to whom the right of promotion really belonged. That it was agreed between them to submit the dispute to the Governor and Coun-

cil in the winter of 1807. That Edsall went to Albany personally and that Ford sent his claim, and that upon hearing the respective claims the Governor and Council appointed Ford Lieutenant Colonel in the room of Turner."

I have an impression that in the course of the winter of 1808, when I had the honor of a visit from you, it was mentioned, that, at the inspection in St. Lawrence the préceeding fall or on some other occasion, Edsall had an interview with Judge Ford in your presence, at which Edsall denied the truth of the above statement and that Judge Ford either disputed having given that statement or some part of it, or retracted or qualified it. Will you be so obliging as to drop me a line repeating the information which you then gave me concerning the interview?

It may be proper to remark that my sole object in making this request is to enable me to state to Col. David Ford, in answer to a letter I have recently received from him, the real points of disagreement between his collateral statement and that of Major Edsall, in order to explain to his more entire satisfaction the true Grounds upon which the Council superseded him and appointed Edsall to the command. My memory may not at this late day be perfectly accurate without being refreshed.

Major Fitch.

THE GOVERNOR BRINGS THE AMBITION OF COLONEL CONSTANT TO
GENERAL PAULDING.

Albany, Dec. 7, 1811.

Dear Sir: I am yet without hearing from you, except through the newspapers, which mention your having arrived and taken your seat.

Some time last fall I received a letter from my friend Joseph Constant, intimating a wish to be thought of for the Government of Florida in case it should be erected into a separate Territory; and desired me to mention the subject to you and Dr. Mitchel. It escaped me when in New York. I do not know what agency you would be willing to take in relation to an appointment in that part of the union, but should the opportunity for such an appointment occur it would be very gratifying to me to see my Friend Joseph placed there. Pray mention the thing to Dr. Mitchel in my name if you have an opportunity. We have nothing new in this quarter except that we are all looking towards Washington with breathless attention.

The Honl. William Paulding, Jun'r.

MAJOR FRANCIS M'CLURE ASPIRES TO THE REGULAR ARMY—THE
GOVERNOR INTERESTED IN A BIT OF GOSSIP.

Albany, Dec. 10, 1811.

D Sir: I have received a letter from our friend Major McClure intimating his wish to obtain a berth in the army should the establishment be increased or an opportunity offer in the present corps. I need not tell you that the Major is a disciplinarian and a patriot, who will not desert his country's standard upon any emergency; and I hope with the assistance of Dr. Mitchel you will be able to gratify him with an opportunity of smelling powder in some suitable station. So far you may shew my letter to Dr. Mitchel, but the residue is not intended for his eye—namely, will you tell me in confidence whether the story of his having set off from Philadelphia by water leaving Madam behind, as is mentioned in a Jersey paper, has any foundation in truth?

I do not mean to use it, like a Rival, to lessen his pretensions to the war department, but merely seek after the truth. I received the documents under your Frank for which please to accept my thanks.

Honl. William Paulding, Jun'r.

THE GOVERNOR PROMISES MAJOR M'CLURE EMPLOYMENT IN THE
MILITIA SHOULD HIS OTHER AMBITION FAIL.

Albany, Dec. 10, 1811.

D Sir: Yours of the 7th has come to hand. I shall certainly be mindfull of giving you employ in the militia in case of hostilities even should you fail of your prospects in the army.

But that you may not be disappointed in that respect I have addressed a letter to our mutual Friend Gen'l Paulding upon the subject with a request that he will shew it to his colleagues.

Major McClure.

SECRET MISSION OF GOVERNMENT OFFICERS TO OUR FRONTIERS.

Albany, Dec. 10, 1811.

Sirs: The Gentlemen who will present you this Note are Mr. David Burgher, of New York & Mr. Robert Moores, of Washington County, who as officers under the General Government, have some important publick business to transact on the Frontiers of this State, which they will detail to you more particularly in person. Permit me to request that you will furnish them with such information and assistance as may be in your power calculated to assist there [them] in accomplishing the objects they have in view.

The Honorable Francis A. Bloodgood, James S. Kip, Nathan Williams, John Bellengir, Apollas Cooper, Esq'rs, Utica.

Joshua Hathaway, Samuel Dill, Henry Huntington, Esq'rs, Rome.

Isaac Kirkpatrick, Esq'r, Salina, Jasper Hopper, Esq'r, Onondaga Hollow, Silvanus Tously, Esq'r, Manlius, The Honl. Reuben Humphreys, Marcellus, Onondaga County.

Enos T. Throop, Joseph L. Richardson, George Fleming, Esq'rs, Auburn, Cayuga Co.

The Honl. John Nickolas, Geneva, The Honl. Philetus Swift, Phelps, Stephen Bates, Esq'r, Canandaigua, Reuben Hart, Esq'r, Canandaigua, Micah Brooks, Esq'r, Bloomfield, Asahel Warner, Charleston, Ontario County.

Joseph Ellicott, Batavia, Isaac Gansen, Caledonia, Esq'rs, Genessee Co.

Archibald S. Clarke, Mr. Vandeventer, Esq'rs, Willink or Clarence, Niagara Co.

THE GOVERNOR TO JASPER HOPPER IN REGARD TO THE ONONDAGA
ARSENAL.

Albany, Dec. 10, 1811.

D Sir: I cordially approve of your having proceeded with the work necessary to be done at the Onondaga Arsenal, without waiting for the arrival of the Commissary, and request you to have the gateway and entrance finished according to the plan which you enclosed to me. Furthermore, I send you one hundred and fifty Dollars, the receipt of which I will thank you to acknowledge by return of Post, and when the balance is ascertained draw on me therefor.

Jasper Hopper, Esq'r.

THE GOVERNOR APPLIES TO DR. MITCHILL FOR GOVERNMENT
DOCUMENTS.

Albany, Dec. 11, 1811.

Dear Sir: I was last night honored with the receipt of your letter of the 5. instant, and learned from it with much satisfaction your kindness to Mr. Whitlow. I want no further evidence of the utility and value of the weed which he has discovered than to ascertain whether the process of rotting impairs its strength or not.

I observe that the house of Representatives has commenced operations upon the important subject of our Foreign relations. Our eyes are steadily directed towards Washington in expectation of observing something which will relieve us from a state of anxious suspense.

In the course of the last session you were so good as to enclose to me several printed sheets of a system of tactics for the United States army and Militia; but mentioned the call for them was so great you could not then continue the favour. Should it be in your power to obtain and send me now a copy of that work, as I expect the whole is printed, you will greatly oblige me.

Allow me, Dear Sir, to ask one favor more. I have experienced the politeness of Mr. Monroe in transmitting to me a return of the census on large paper of about 16 by 13 inches. In the book sent to me there is an aggregate return for each State by counties, and a separate return or census of the several *Towns* in each State except New York. I presume an expectation that I had procured the return of the census of our own State *by Towns* from other sources was the reason of the omission. This document I deem an important one, and should be much gratified to have the return for New York *by Towns* on

paper of the same size with that I have already received, that I may have the complete return bound in one book. There were doubtless a great number of copies struck off, and if you will endeavor to procure and send me those sheets which comprehend the return of towns in New York, I shall feel highly sensible of your kindness.

Please send me copies of the reports of the secretaries of the war and navy departments as soon as they may be printed.

With Great esteem and friendship,

The Honbl. Sam L. Mitchil [Mitchill].*

REASONS WHY GOVERNOR TOMPKINS LOOKS FOR WAR.

Albany, Dec. 12, 1811.

D Sir: I have this day been honored with the receipt of your letter covering part of the report of the secretary of the Treasury. The residue of the report came under General Paulding's frank.

My impression has all along been that the present session of Congress would not eventuate in measures calculated to

*Samuel Latham Mitchill, was born at North Hempstead, New York, August 20, 1764; received a classical education and studied medicine with Dr. S. Latham, his maternal uncle; in 1788 a commissioner to purchase the lands of the Iroquois Indians in Western New York; a member of Assembly in 1791; appointed professor of chemistry and natural history in Columbia College in 1792; one of the founders of the State Society for the Promotion of Agriculture in 1793; an editor of "The Quarterly Medical Repository" 1797-1813; again a member of Assembly 1798; elected a representative from New York in the Seventh Congress as a Democrat, and was re-elected to the Eighth Congress, serving from December 1, 1801, to his resignation November 22, 1804; elected a United States senator from New York (in place of John Armstrong, resigned), serving from November 23, 1804, to March 3, 1809; again elected a representative in the Eleventh Congress (in place of William Denning, who was elected, but never qualified); re-elected to the Twelfth Congress, receiving a majority of 530 votes, serving from December 4, 1810, to March 3, 1813; professor of natural history in the New York College of Physicians and Surgeons 1808-1820, and of botany and materia medica 1820-1826; vice-president of the Rutgers Medical School 1826-1830; one of the founders of the New York Literary and Philosophical Society in 1815; died at New York September 7, 1831. He published "Observations on the Absorbent Tubes of Animal Bodies," "Nomenclature of the New Chemistry," "Present State of Learning in the College of New-York," "Life of Tammany," "Synopsis of Chemical Nomenclature," "History of the Botanical Writers of America," "Treatise on the Fishes of New York," besides numerous addresses.

meet the publick expectation. Notwithstanding declarations to the contrary, by the British and their adherents, I do verily believe that their ministers have already furnished abundant reason to conclude that should cool, decided and bold measures be adopted with considerable unanimity and be faithfully and obstinately adhered to and executed, Great Britian will be induced to retract or modify a great part of her offensive proceedings. But even if that belief be not well founded, still are we not in some measure pledged, after what has been said and written, to take a decided course to prevent a perfect conviction on her part and on the part of other nations also, that we will for the mere privilege of scolding and grumbling submit to any and every thing. If we shrink back now, when our injuries are fresh in the recollection of [the] community, when the correspondence has brought our differences to plain and intelligable points understood by everybody & when also it is universally understood that we are clearly on the right side of each Question of difference, I shall for my own part, forever thereafter, deem all the Kicks and thumps which the Belligerents may be pleased to give us, to be merely so many love taps.

I hope, however, that my prophecy may prove to be incorrect and that you will evince by your measures that we will forthwith gird on the sword rather than couch to insult any longer. Should this course be pursued I shall summon home my staff-Invincibles (Gen'l Paulding Gen'l Porter and Col. Livingston).

By a continuance of your kindness, in sending to me the important Documents, Reports &c which may from time to time be submitted to Congress you will lay me under great obligation. Please to mention my respectfull compliments to your

colleagues and accept an assurance of my esteem and regard for yourself.

The Honbl. Thomas B. Cook.*

MAJOR CANNINGHAM RECOMMENDED FOR THE ARMY BY GOVERNOR
TOMPKINS.

Albany, Dec'r 12, 1811.

Sir: Major Ganvood A. Cunningham of Poughkeepsie in the county of Dutchess contemplates making an application for an appointment in the army, in the event of an increase of the war establishment. He is about forty six years of age, liberally educated, of a dignified appearance and sustains a good character; and I, therefore, recommend him to the notice of Government should the anticipated enlargement of the army take place.

The Honbl. Wm. Eustis.

DISAPPEARANCE OF GENERAL ORDERS FOR SEVERAL YEARS—QUALIFI-
CATIONS AND STANDARD FOR ARMY OFFICERS.

Albany, Dec'r. 13, 1811.

D Sir: By your letter of (no date) I am requested to recommend Messrs. Sproul and Fink for appointments in the contemplated increase of the army establishment. This I have no objection to do when I shall be made acquainted with their qualifications and characters of which I have at present very little knowledge.

Those who may be recommended, for field officers in particular, ought to be men of sound American principles—of respect-

* Thomas B. Cook resided at Catskill, New York; elected a representative from that district in the Twelfth Congress, as a Democrat, receiving 243 Majority, and served from November 4, 1811, to March 3, 1813; member of Assembly in 1838 and 1839.

able standing in society—of good moral character and possessed of soldierly qualities. The last six Regiments were indifferently officered for the want of a scrupulous attention, in those who brought forward the candidates, to the above particulars. I am determined, therefore, to withhold my recommendation in all future cases, where my personal knowledge is not sufficient, unless I shall be furnished with unquestionable testimonials as to the before mentioned qualifications. You will observe that this requirement does not in the least impeach the Gentlemen to whom you allude, because I am totally unacquainted with those points of their characters. It will give me great pleasure to forward a very prompt and decided recommendation when the aforesaid evidence shall have been afforded.

I enclose a letter received from some persons who are desirous of being breveted to form a new company in Col'l Fleet's Regiment. I am ignorant of their characters or pretensions, except that I presume the intended captain is a young lawyer from Mr. Hopkins office, has since been a ward justice and is not celebrated for temperance, according to insinuations which have been made in my presence, I think by Mr. Clinton at Gen'l Morton's Table when you were present. Cooke is the captain of a company of Mr. Van Hook's Regiment, of which Gen'l Morton's second son is ensign; and you may recollect the Major asked him if his Captain was not a little drunken lawyer. Besides this, they do not appear to have the approbation of Col. Fleet; if they had, he would have subjoined a regular recommendation in writing. I cannot take their own declarations as sufficient upon that head. When these obstacles are removed by Col. Fleet to your satisfaction you are at liberty to issue a General Order organizing the company.

I am getting all the General Orders from 1801 to the present time engrossed. Those prior to that period were in the possession of Adjutant General Van Horne's widow, now Mrs. Daniel Ludlow. Whether she has ever handed them over to Gov'r Clinton or to Gov'r Jay is not known. She certainly did not deliver them to Solomon Van Rensselaer, the successor of Van Horne, on account of the offensive manner of his appointment and the indelicacy of demanding the books and papers when her husband was on his death bed. If they be yet in her possession you can probably obtain them in behalf of myself or Gen'l Paulding and send them to me. At any rate you can learn where they are. I will thank you to make the enquiry and experiment. If she will not part with them on any other terms, you may pledge my veracity for returning them safely to her as soon as I have made a copy for myself. Please to send me copies of the respective General Orders, immediately after they are issued, that I may have them regularly engrossed and brought up in my own Book of Orders. In lieu of the method I have mentioned in my letter of last evening to provide for any deficiency of my balance in the Manhattan Bank, to meet the check for \$1000 Dollars, Col. Livingston may deposit to my credit, if it be convenient, the balance he has received for me at Washington, and upon being notified thereof I will send him a receipt.

Col. Macomb.

THE GOVERNOR RECOMMENDS THE SON OF ROBERT M'CLALLEN FOR AN
ARMY APPOINTMENT.

Albany, Dec'r 14, 1811.

Dear Sir: I have this day transmitted to the secretary of war a recommendation of Robert M'Clallen, Junior, for an

appointment in the army. He is the son of our quondam Treasurer, is a modest, unassuming young man, of unquestionable morality and of genteel appearance. I hope you may have an opportunity, and feel disposed, to back his pretensions. The report and resolutions of the committee of Foreign relations have inspired the young men in this quarter with such a devout military spirit, that, were officers all that is wanting for the purpose, I could muster by Monday morning a sufficient number to take all upper Canada. Whether they will be equally zealous and animated, should it be their destiny to be called upon as privates, is quite another question. I shall be obliged to any of my friends who will kindly advise the secretary of war to drop me a line suggesting that recommendations for appointments in an army not yet created, are rather premature and oppressive to that Department.

In a letter this day addressed to him, I have hinted to the Secretary as plainly as I dare the propriety of his doing so. Indeed without some such pretext for my declining to unite in these *de bene esse* recommendations, I can assure the secretary that he may set apart one whole square of pigeon holes for my recommendations of officers for the army—that is to be.

The Honbl. Peter B. Porter.

THE GOVERNOR ASKS THE SECRETARY OF WAR FOR INFORMATION.

Albany, Dec'r 14, 1811.

Sir: By a letter this day rec'd from Col. Livingston I am made acquainted with your kindness and obliging assistance in facilitating and expediting the adjustment of my account. Be assured, sir, of my deep sense of the obligation.

The Prospect of actual service, which the resolutions reported by the committee of Foreign relations afford, has brought upon me a host of candidates for the army.

It appears to me to be rather premature to present candidates to the President before those Resolutions are incorporated into a law, or until there exist greater certainty that the army establishment will be enlarged. But this answer is very unsatisfactory to most of the applicants, who say that they are well assured recommendations for others are already sent on from various parts of the United States, and that they are informed and are fearful that the first applicants will be preferred. It is also probable that many are advised and urged to forward their credentials immediately, by letter from their friends at Washington.

I must, therefore, beg you to excuse me in uniting occasionally in such recommendations, untill I may receive an intimation from your department that such *de bene esse* testimonials are unfrequent from other quarters and had better be dispensed with.

The Honbl. William Eustis.

THE GOVERNOR ASKS THAT MR. M'CLALLEN BE APPOINTED TO THE
ARTILLERY.

Albany, Dec'r. 14, 1811.

Sir: Mr. M'Clallen mentioned in the within paper, is brother to John M'Clallen, dec'd, who served with reputation ten or twelve years in the artillery of the United States, and was then appointed Consul at Batavia, where he died. The present appli-

cant would prefer obtaining an appointment in the artillery corps, if it be practicable.

The subscribers to his certificate are intimately acquainted with his private character, which I have no doubt is perfectly good; and I, therefore, cheerfully recommend him for the office of Lieutenant, either in the old or new army establishment. A recommendation by Gen'l Gansevoort, Dr. Mitchel [Mitchill] and others was forwarded about two years ago. Mr. Bleecker our representative can also give any further information which may be required.

The Honl. Wm. Eustis.

AND BRINGS THE YOUNG MAN TO THE NOTICE OF CONGRESSMAN HARMANUS BLEECKER.

Albany, Dec'r. 14, 1811.

Dear Sir: I acknowledge the honor you have done me by transmitting to me from time to time the Presidents message, the Documents &c and pray you to accept an assurance of my due sense of your politeness.

By the mail which conveys this, I have forwarded a recommendation of Robert M'Clallen, Jun'r, for an appointment in the present army or if that be impracticable, he hopes to be noticed in the appointments for the contemplated increase of the army establishment. I have ventured to refer the secretary of war to you, believing that you are well acquainted with Mr. M'Clallen and with his family. Messrs. Shepherd and Boyd, in whose employ he has long been, assure me that he sustains a good moral character and is free of any vices. His appearance is certainly prepossessing—his deportment modest and I verily

believe that in every respect he is worthy of the Notice & patronage of Government.

The Honl. H. Bleeker.*

THE GOVERNOR NOTIFIES COLONEL LIVINGSTON TO DRAW UPON
HIM FOR ANY REASONABLE SUM.

Albany, Dec'r. 16, 1811.

Dear Sir: I have received both of your letters and can assure you that I have an exalted opinion of your Diplomatic talents and am highly pleased with the result of your late embassy. The amount of \$188.71 was very properly deducted. I am apprehensive that the bad travelling and your necessary detention at Washington, by reason of the accumulated business of the War Department at that time, must have made your journey an unprofitable one. For any further sum, which you may think reasonable for indemnifying you for expences, you are at liberty to draw on me at sight.

Col. J. W. Livingston.

DR. GUTEAU INVENTS A NEW DEATH DEALING ROCKET.

Albany, Dec'r. 16, 1811.

Dear Sir: With respect to Mr. Guiteau,† I intended originally to pay nothing more than the expence of making one of the Machines and giving it a trial.

*Harmanus Bleeker was born at Albany, New York, in 1779; received a classical education; studied law; was admitted to the bar, and commenced practice at Albany; elected a representative from New York in the Twelfth Congress, as an anti-war Federalist, by a majority of 482, serving from November 4, 1811, to March 3, 1813; was appointed a regent of the University of New York in 1822; was chargé d'affaires in the Netherlands May 12, 1842, to June 28, 1845; and died at Albany, New York, July 19, 1849.

†Dr. Francis Guiteau, Jr., resided in Deerfield, Oneida county. The National Government gave him an appropriation for the missile alluded to above.

JACOB MORTON TO GOVERNOR TOMPKINS.

"New York December 13, 1811. * * * Dr. Guiteau yesterday submitted to me his project of a 'Rocket shell' or 'Harpoon shell,' for I don't know ye name he means to give it. I think there is much ingenuity in it and that it is well worth a fair experiment. The Doctor has, I believe, already expended as much money as is convenient to him and I believe he expected that you would authorize Cap. McLean to make him some advance. Mr. McLean told me he was authorised to allow ye expenses of the shell and of the experiment but nothing further.

"He has one made but to give it a fair trial there ought to be half a dozen. The expence already incurred is I understand about \$30 and to make five more will cost \$30 more. I believe they will proceed to make the additional five and I mention the am't of ye expence that will be incurred in order that you may judge how far you will deem it expedient towards his personal expences."

I have, however, no objection to having the other five made at the expence of the state, provided such of them as are not used or exploded, be left with Mr. McLean at the Arsenal. I wish Mr. Guiteau to bring one of them with him to Albany.

Mr. Guiteau's personal expences must be left as a subject to be settled between me and him personally when he shall pass through this place.

I will thank you to have the accounts of the Commissioners of Fortifications brought up as soon as possible. With an opinion on Mr. Smith's account I shall probably remit you eleven hundred dollars.

Gen'l Morton.

JASON RUDES RECOMMENDED FOR THE CAVALRY.

Albany Dec'r 18, 1811.

Sir: I beg leave to recommend Mr. Jason Rudes of this place for an appointment in the cavalry of the United States, in the event of an augmentation of that corps, or in the other troops if an appointment in the cavalry cannot be obtained. Mr. Rudes is an intelligent, sober, industrious man about 37 years old, of sound moral and political character, and would I doubt not fill the office of captain with reputation and usefulness. I am, respectfully, sir,

The Honbl. Wm. Eustis.

ASA WELLS'S RECEIPTS FORWARDED TO MR. SECRETARY GALLATIN.

Albany, Dec'r 18, 1811.

Sir: I enclose duplicate receipts of Mr. Asa Wells for the amount of his account, which amount has been paid by me pursuant to the authority contained in your letter of the 12th of November last.

The Honbl. Albert Gallatin.

A PERSONAL LETTER FROM THE GOVERNOR TO COLONEL ROBERT
MACOMB.

Albany, Dec. 15, 1811.

Dear Sir: I have not received a letter from you for upwards of a week which enduces a belief that Mrs. Macomb or yourself is sick. We are, therefore, more than usually desirous to hear from you. The sofas which Mr. McLean promised to send up from Phife's have not been heard of yet. The River closed last Saturday night, but the weather has been moderate since Monday and this day there is a warm rain which I expect will clear the River of ice.

By the mail which carries this letter I have sent one to Mrs. Mary Mann, who lives in the upper part of the Bowery opposite the house owned by Mr. Denham and myself. The letter relates to some important business of the estate of her late husband; and, if your servant should have nothing else to do, you will oblige Mrs. Mann and me by taking it out of the Post Office and sending it to her. Don't forget the Diplomatic Embassy to Mr. Ludlow with which you are charged.

Col. Robert Macomb.

THE GOVERNMENT BUILDING AT THE BATTERY IN A RUINOUS AND
DISREPUTABLE APPEARANCE—PREPARING FOR ITS CONDEMNATION.

Albany, Dec'r 18, 1811.

Dear Sir: I beg leave to call your attention to the subject upon which we conversed before my departure from New York. It is very certain that it will not be advantageous to the state to repair the Government House in New York, and it is equally true that without very extensive repair it will soon be a reproach to the city. The corporation did once, I think, offer the state 50,000 Dollars for it, which was thought, by the Surveyor General and others here, to be an inadequate price, and indeed the amount for which some gores near Mr. Gracie's sold, evinced that the price offered by the corporation was far below the real value of the Government House and Ground. My own opinion is that £25,000 equal to \$62,500 would be a proposition to which the Legislature would accede, and in case that offer shall be made, I shall use my influence to induce them to accept it. It appears to me the first thing necessary to be done on your part is to have an accurate survey made of the Ground. The next thing will be to procure a Resolution of the corporation "reciting the ruinous and disreputable appearance of the Buildings and fences"—The provisions of the act which prevents the state from appropriating the ground to any other than publick uses, and the objects of the corporation in wishing to have it retained for publick uses &c., and then resolving that they will give such a price in stock or money or securities for money to be applied to the purchase of Ground and the erecting a Government House at Albany or to such other publick object as the Legislature may direct. Upon my being fur-

nished with an official copy of such Resolution with a survey annexed, I will make it the subject of a special message and doubt not that a bargain will be immediately closed.

Peter Mesier, Esq'r.

P. S. You will find the materials for a survey of the westerly, easterly and northerly sides in an act passed 16 March 1790* (see Greenleaf's edition 2d vol. 307) and the southerly side is the northerly side of Lent's potash building, now belong-

*An ACT for securing and improving certain lands in the city of New York for public uses, and for other purposes therein mentioned.

Passed the 16th of March, 1790.

Whereas Fort George, in the city of New York and the battery adjacent thereto are at present useless for the purpose of defence; Therefore,

Be it enacted by the People of the State of New York, represented in Senate and Assembly and it is hereby enacted by the authority of the same, That all that part of Fort George in the city of New York and the lands adjoining thereunto, belonging to the people of this State beginning at a stake standing on the easterly side of the Broadway continued at a place which is eighty six feet distant on a course south thirty seven degrees and forty five minutes east from the south-east corner of the dwelling house of Captain Archibald Kennedy [the present No. 1 Broadway], and running thence easterly to the north east corner of the old secretaries office on Whitehall street, thence southerly along the west side of Whitehall street to the ground of Captain Thomas Randall, then westerly, along the north side of his ground, and along the rear of the lots which front on Pearl street, as far as they extend, then north fifty seven degrees and forty five minutes west, until a course north thirty two degrees and fifteen minutes east will strike the place of beginning, and then north thirty two degrees and fifteen minutes east, to the place of beginning, shall be and hereby are declared to be forever reserved for the purpose of erecting public buildings, and such works of defence as the legislature shall from time to time direct; and further that the same shall not at any time or times hereafter be sold or appropriated to or for any private use or purpose whatsoever.

And be it further enacted by the authority aforesaid, That all the lands belonging to the people of this State, within the bounds following, to wit, beginning at the north east corner of the old secretaries office, and running thence southerly along Whitehall street to the East river, at Whitehall slip, then southerly westerly and northerly along the East river, the bay and Hudsons river, to the north side of the street which runs on the south side of Archibald Kennedy's house, continued to Hudsons river, thence along the same, to the south east corner of the said Kennedys house, thence south, thirty-seven degrees and forty five minutes east eighty six feet, thence easterly to the place of beginning (excepting thereout that part reserved to the people of this State as described in the preceding section of this act) as well as all the lands within the bounds and limits aforesaid, which the said corporation of the city of New York claim title to, shall be and the same are hereby vested in the mayor aldermen and commonalty of the city of New York to remain for the purpose of erecting public buildings, and works of defence thereon; but without any power to dispose thereof for any other use or purpose whatsoever, and without any power of selling any part thereof.

And be it further enacted by the authority aforesaid, That it shall and may be lawful for the mayor aldermen and commonalty of the city of New York, to cause the said Fort George to be demolished, and the ground whereon the said fort stands to be leveled, and also to cause a bulk head to be erected from the end of the bulk head lately erected by them, continuing the same to the south west bastion of the battery aforesaid; and to sell and dispose of the buildings and materials of the said fort, and to apply the monies arising therefrom towards erecting the bulk head aforesaid.

And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for Gerard Bancker, Richard Varick and John Watts, or the major part of them, to cause a proper house and other necessary buildings to be erected on some part of the lands in the first enacting clause in this act mentioned, for the use of the government of this State; and to be applied to the temporary use and accommodation of the president of the United States of America, during such time as the Congress of the United States shall hold session in the city of New York; and the treasurer of this State is hereby authorized and required, to pay to the order of the said Gerard Bancker, Richard Varick and John Watts, or the major part of them, such sum as may be necessary for the purposes aforesaid; not exceeding in the whole, the sum of eight thousand pounds, out of any monies in the treasury, not otherwise appropriated, to be by them applied to the purposes aforesaid. And it is hereby declared that the said sum eight thousand pounds, is the whole sum intended to be appropriated to the purposes aforesaid.

ing to the United States.—The act of 1790 is the one which reserves the property for publick uses solely.

THE GOVERNOR INFORMS CAPTAIN JOHN MARSHAL HE HAS NO
AUTHORITY TO RAISE OR ACCEPT VOLUNTEER COMPANIES.

Albany, Dec. 19, 1811.

Sir: I have no authority at present to accept or to organize volunteers for actual service.

It is to be presumed that such authority will be conferred before the rising of Congress, and whenever it shall be, I shall announce it publicly, & then it will give me great satisfaction to receive and accept the patriotic tender of your services.

Capt. Jno. Marshal.

THE GOVERNOR RECOMMENDS JOHN M'KINLEY FOR THE ARMY.

Albany, Dec'r 19, 1811.

Sir: In the event of war or of an augmentation of the army Mr. John McKinley of New York is desirous of being enrolled amongst the defenders of his country and for that purpose solicits a commission in the army.

Mr. McKinley commanded an uniform company in New York—is an enterprising, patriotic and respectable man and well qualified for a station in the army and I do chearfully recommend him accordingly.

The Honl. William Eustis.

THE GOVERNOR SUGGESTS A GENERAL SYSTEM FOR REGULARS AND MILITIA AND INCIDENTALLY A UNITED STATES DISTRICT JUDGESHIP TO GENERAL PAULDING.

Albany Dec'r 21, 1811.

Dear Sir: Yours of the 13th which came to hand last evening gave me great satisfaction; for I was really fearful that your omission to write before was owing to ill health.

Not a single Military paper has been received since the one which was sent to you, except two applications for the organization of new uniform companies, which I "dispatched in less than no time," as old Stickler would say.

It is certainly desirable that a national system of discipline and tactics for the militia and Regulars should be devised and sanctioned by Congress. Untill something of that kind be done, we may expect to have a great many ignorant officers in both corps, and of course some very indifferent troops. I observe that a member has introduced a resolution calculated to lead to that measure. Whenever it shall be undertaken, it will probable produce corresponding alterations in the Militia Law and in the rules and articles of war. Should this happen to be the case, would it not be advisable to leave the revisal of our Militia Law untill next winter, and let it be included in the second report of the Gentlemen appointed to revise all the Laws? By that time (the session of 1813) we should be able to make the provisions of our law harmonise more perfectly with the amendatory acts of Congress.

Another very important subject requires attention, and I am pleased to learn that it has already attracted the notice of Congress—I mean the reorganization of the District Court for this state. Apropos! Permit me to answer one question by

asking another. Suppose the salary to be 5000 Dollars, as it ought to be, what kind of a district judge would the adjutant General of the largest state make?

The Honbl. William Paulding, Jun'r.

P. S. I forgot to thank you for the National Intelligencer. Since writing the preceding letter, yours of the 16th has arrived with an additional Intelligencer.

THE GOVERNOR WILLING TO SUPPLY CAPTAIN MOUNT WITH NINE
POUNDERS.

Albany, Dec'r 21, 1811.

Sir: Your communication of the 3d instant came to hand last night, and it afforded me great satisfaction to learn the prosperity of the company and their patriotic disposition to devote themselves to the service of their country in times of difficulty and danger.

The only field pieces, which remain in the Arsenal, fit for Light Artillery are nine pounders; and it is not probable that there will speedily be in the Publick Stores any of smaller caliber. If you choose to take nines, by making me acquainted with that determination, the commissary shall be forthwith directed to deliver them to you.

Capt. John S. Mount.

THE GOVERNOR RECOMMENDS THOMAS EARLE FOR A REGULAR ARMY
COMMISSION.

Albany, 21 Dec'r, 1811.

Dear Sir: Your recommendation of Mr. Earle, for an appointment in the army, and a letter from Major McClure on the same subject, were Received last evening.

Not being personally acquainted with Mr. Earle, I take the liberty of enclosing to you my letter in his behalf, which I will thank you to give him. Be pleased to accept an assurance of my greatest respect and esteem.

Clarkson Crolius, Esq'r.

Albany, Dec'r 21, 1811.

Sir: Mr. Thomas Earle, of New York, is recommended to me by Major McClure, commandant of the Battalion of Republican Greens in New York, of which Mr. Earle is at present a member, and by Clarkson Crolius, Esq'r.

In the assurance of those Gentlemen of his good reputation and standing in society, I have implicit faith, and therefore unite in recommending Mr. Earle for an appointment in the army of the United States.

I am, sir, with much respect Your Ob. St.

Daniel D. Tompkins.

The Honbl. William Eustis.

THE GOVERNOR RECOMMENDS MR. SWARTWOUT OF NEW YORK FOR
THE ARMY.

Albany, Dec'r 21, 1811.

Sir: Mr. S. Swartwout of New York informs me that he intends shortly to visit Washington in the hope of procuring an appointment in the Army. The high estimation in which I hold the character of Mr. Swartwout for enterprise, talents and military qualifications induces me to solicit your favourable notice of his application.

It would be insincere in me to conceal my entire disapprobation of a short period of his past life; but, allow me at the same time to say, that personal attachment and the ardour of youth are in his case palliatives so powerful as to make that regretted instance of indiscretion scarcely discernible through the many estimable and distinguishing qualities which he really

possesses. Had I the controul of appointments, there are few young gentlemen to whom I would more willingly confide a Military command than to Mr. Swartwout, and, should he prove successful in his intended application, I venture to assert that he will discharge the duties of a military station with fidelity and usefulness.

The Honbl. William Eustis.

CAPTAIN MOSELEY COMPLIMENTED.

Albany, Dec'r 30, 1811.

Sir: I am this day honored with your communication of the 4th instant, announcing the patriotic resolution of the Onondaga Rifle corps under your command, to devote themselves to the defence of their country should hostilities commence with any Foreign nation or a resort to arms become necessary.

It will give me sincere satisfaction in such event to avail our country of the services of the enterprising troops under your command: and whenever there may be a call for actual service, I shall be mindful of the tender they have made.

Be pleased, sir, to convey to the corps my high estimation of their Military and patriotic zeal and accept an assurance of my great regard for yourself.

Capt. Charles Moseley.

THE GOVERNOR TO MRS. VALLEAW IN BEHALF OF HER SON WITH
MILITARY ASPIRATIONS.

Albany, Decr. 30, 1811.

Madam: I must confess that at the moment of receiving your letter, the recollection of our former acquaintance had

escaped from my mind but revived upon a few moments reflection.

It affords me sincere satisfaction to be enabled to testify a continuance of my respect and esteem by a compliance with the request contained in your letter of the 14th instant.

The enclosed letter to the secretary of war in behalf of your son will I hope be satisfactory and prove successful.

Mrs. Elinor Valleaw.

Albany, Dec. 30, 1811.

Sir: I have been furnished with satisfactory testimonials of the good character and habits of Mr. John Valleaw, of the city of New York, and beg leave to recommend him to your notice for an appointment in the army. I am convinced that he will acquit himself, if honored with a commission, with reputation and to the satisfaction of his country.

I am, sir, respectfully Your Ob. Sv't.

Daniel D. Tompkins

The Honbl. William Eustis.

THE GOVERNOR ESPOUSES THE MILITARY AMBITION OF GEORGE
HODGSON.

Albany, Dec'r 30, 1811.

Sir: Enclosed is a letter to the secretary of war requested by yours of the 7th of December recently handed to me.

I am, sir, with esteem Your Ob. Sv't.

Mr. George Hodgson.

Albany, Dec'r 30, 1811.

Sir: Mr. George Hodgson is at present an enterprising and reputable officer in the New York Brigade of Artillery. He is desirous of serving his country by bearing one of her swords in the event of war. His age, intelligence and character qualify him for an appointment in the contemplated augmentation of the army and I beg leave to unite in recommending him for a commission therein.

I am, Sir, respectfully, your obt. servt.,

Daniel Tompkins.

The Honbl. William Eustis.

GOVERNOR TOMPKINS INDORSES LUDLOW DASHWOOD'S AIMS TO BE A
PURSER IN THE NAVY.

Albany, Dec. 30, 1811.

Sir: Ludlow Dashwood of the late firm of Daniel Ludlow & Co. has communicated to me through a friend his wish to obtain the office of Purser in the navy.

My acquaintance with Mr. Dashwood is slight but intimate with many of his connections and friends. From their assurances and my own personal knowledge I venture to recommend him to your notice for the appointment which he is solicitous to obtain.

The Honbl. Paul Hamilton.

THE GOVERNOR INDULGES IN GENERAL AND MILITARY GOSSIP.

[Private]

Albany, Dec'r 30, 1811.

Dear Sir: Your letter of the 18th* has been duly received. Under your frank the National Intelleger [Intelligencer] has arrived regularly and this day I am favoured with the report of the Secretary of the Navy, for all which as in duty bound I shall ever pray &c.

Instead of supposing that my friend Silvanus's errand was connected with the great national concern to which you allude, I was puzzling my brain to make a decision between two other

*City of Washington, 18 Dec'r, 1811.

Dear Sir: I have had the honor of receiving your Excellency's letter of the 10th instant and will not forget our friend the Major.

The story related in a Jersey paper respecting our *learned* friend, the Doctor is alas but too true! It was not until a gentleman on board the packet enquired for the other moiety of the *sage*, that it was discovered Mrs. had been left on the wharf at Philadelphia. Don't make use I pray your Excellency of this incident to deprive at this critical moment the country of the aid of the Doctor's great military talents.

On the supposition that your Excellency did not receive the Intelligencer I have regularly forwarded to you that print. Our friend Silvanus Miller is here. Genl. Cortlandt is expected &c. They no doubt have in view the support of the pretensions of the *Grat Canal* to the patronage of Congress.

Your friend,

Wm. Paulding, Junr.

objects which appeared to me to be equally probable. The Quere in my mind was this—has he gone to Washington to get his oldest boss, Judge Ogilvie, appointed District Judge, or has he proceeded there merely to take charge of his wife's sister, during the mental absence of the Sage of Plandome? Should I be out on both points, then I shall, hereafter, abandon and renounce all pretensions to form any probable conjectures about the objects and schemes of individuals at Washington. Indeed, independent of such disqualifications such conjectures by a man who has never breathed the air of court, must needs be very shallow-pated!

We have nothing of news here worthy of being communicated. I have given a fine Harvest to the Albany taylors &c by inviting all the General, Brigade, Field and staff officers within the city and its environs to attend me, in uniform and on horseback, to church on New Years day. Capt. Humphrey's troop of cavalry have volunteered an escort. Scarcely a Brigadier General or Brigade staff officer was equipt—when I issued the invitations, since which time there has been as much commotion amongst them as if they had been attacked unawares by the Indians. Bye the bye, if the cold continues as intense as it is now, I shall pay for the frolick.

Since I wrote you last, I have seen Mr. Woodworth, who tells me the Revisors will report all the Laws this winter, and it is, therefore, necessary for us to be prepared with the Militia Law. Should it be perfectly convenient to send me the annual inspection return by the day the Legislature meets it will be gratifying. Would it not be well to specify the delinquents on the first of December and take the return of last year for

defaulting Brigades? But upon that subject you are the best Judge.

The Honbl. William Paulding, Jr.

ON MILITARY AND FAMILY CONCERNS TO COLONEL MACOMB.

Albany, Dec'r 30, 1811.

D Sir: I gave orders for your check to be charged to me when it arrived; it had not been sent up on Monday last.

I am sorry that the Sofas could not have got up before the ice closed the River. The weather is and has been for some time so extremely severe that I entertain very little prospect of getting them up before Spring and then they will be useless to me.

Mr. Phippe promised to have them done in one week and send them up, and it was only on that condition I engaged them.

He may of course sell them, unless he will undertake to send them here at his own risk and expence. You must not suppose that your recommendation to me of persons who are desirous of obtaining appointments in the army are unwelcome, but as I had never seen Sprowls or Fink to my knowledge, it was my desire to obtain the requisite information before I wrote in their favour; and as I presumed you would have occasion to write in behalf of others also, I took the opportunity of that answer to lay down the general qualifications with which I wished you to acquaint me in your future letters.

Your last mentions Dashwood Ludlow for a Purser in the navy. I think you have reversed the name and accordingly I have recommended Ludlow Dashwood. But should I be mistaken and you correct I will thank you to return it to me and I will send one for Dashwood Ludlow.

Your last letter mentions certain good qualifications in Sprowls and Fink. I have, therefore, enclosed a letter in their behalf.

But I would thank you to consider both these recommendations confided to you, according as you may upon enquiry have found the moral character of the three within named Gentlemen to be.

You may if you please draw a check on the State Bank for the amount of the money you have paid for me and send me seasonable notice so that I may deposit to meet it in season. At the same time send me Haight's bill and the receipt for the post office bill which will be charged to the state. The former of these bills is what old Jacobs would call "a swheater." Little Minthorne continues to be troubled with the Humour he had at New York, which I fear is the Salt Rheum. He is, however, otherwise well and so are all the rest of the family.

Mrs. Tompkins presents affectionate regard to Mrs. Macomb to whom be pleased also to present my respects.

Col. Macomb.

U P. S. If I am to look to you for the annual Militia return, let me have it if possible before delivering my speech. The report of the commissioners of the school fund I expect of course before that time. Send me Pikes Tour or bring it with you when you come up to attend a meeting of the comm'rs—add the christian names of S. and Fink.

THE GOVERNOR TO JOHN COOKE IN REGARD TO HIS ARTILLERY ORGANIZATION.

Albany, Dec'r. 30, 1811.

Sir: I have received your several communications relative to the organization of a new company of artillery in Col. Fleet's

Regiment. His consent or return in writing is an indispensable preliminary to such a measure.

I wrote so to Col. Macomb immediately after receiving your first communication and authorized him to issue an order upon that preliminary being complied with and I presume he has given that information to you.

It is perhaps proper for me also to apprise you that the Returning officers of the New York Artillery have heretofore declined to return any officers of a new company, which may come into the artillery, for any commission above that of a second lieutenant, and that if that practice be still persisted in you would only be returned and commissioned as second lieutenant, although I should now brevet you as Captain.

Jno. Cooke, Esqr.

COLONEL FITZGERALD RECOMMENDED BY THE GOVERNOR FOR THE
REGULAR CAVALRY.

Albany, Dec'r 30, 1811.

Dear Sir: Col. Edmond Fitzgerald, commanding the cavalry Regiment, comprehended in Saratoga, Washington, Essex, Clinton and Franklin Counties, is desirous of obtaining an appointment in the cavalry of the United States. He is a good militia officer and a good Republican Patriot. He commanded a troop in Saratoga County in 1807, and was amongst the first to volunteer with all his corps in the detachment then ordered.

He is a very worthy man and I think well fitted for the station to which he aspires, which is that of a Major in the United States Cavalry. Judge Pond must be acquainted with Col. Fitzgerald to whom I will thank you to speak on the subject.

Gen'l German

THE GOVERNOR TO THOMAS ADDIS EMMET TOUCHING A LEGAL
MATTER.

Albany, Dec'r 30, 1811.

Dear Sir: The day before I left New York I delivered to Mr. Harris the bonds and mortgages of Mr. Charles Smith to Mr. Morris and myself, as guardians &c. to enable Mr. Harris to frame certain instruments which Mr. Smith directed to be drawn. On the day of my departure I sent for them but Mr. Harris was absent from the office. As they are of great importance I shall esteem it a favour if you will bring them to this place in January Term.

Our friend General Gray has had a sad time of it since he returned from New York. I have just visited him and find him recruiting very fast.

Thos. A. Emmet, Esqr.

THE GOVERNOR SUGGESTS TO THE SECRETARY OF WAR THE
PROPRIETY OF LAYING IN A LARGE SUPPLY OF POWDER
IN THE CHAMPLAIN DISTRICT.

Albany, Dec'r. 30, 1811.

Sir: Messrs. McKinne and Bancroft of the Town of Moreau in Saratoga County, have erected a powder manufactory and had provided a large quantity of Salt Petre to employ their works, but, the non importation act prevents their bringing it from Montreal where it was purchased. Their works are on the Hudson only eight miles from Fort George on Lake George, and eighteen from Whitehall on Lake Champlain. About eighty five miles is the distance to the St. Laurence.

They profess to manufacture of an equal quality with the Brandywine Mills and are willing proof shall be made of the quality and strength of all they manufacture before it is received.

It occurred to me that the present aspect of affairs would make it desirable for the United States to have a quantity of powder in the direction of Lake Champlain, without occasioning the alarm which the transportation of a considerable quantity from New York, or from this place would create; and I, therefore, undertook to address a line to you in their behalf to ascertain whether the Government would be willing to employ them in the manufacture of materials of which I am informed you have an abundant supply. Will you be so kind as to favour me with an answer upon the subject which I may communicate to them.

Should the state of things induce you to forward towards Canada any portion of the arms and ammunition of the United States, it may be done during the sleighing in winter with less notoriety and alarm, and with equal safety, and I believe with less expence, than in summer. This will certainly be the case in the direction of Lake Champlain. Allow me to repeat my offer to the United States of the use of our Arsenals at Plattsburgh, Essex, Rome, Watertown, St. Lawrence County, Onondaga and Canandaigua free of expence.

The Honbl. William Eustis.

THE GOVERNOR DECLARES MEMBERS OF CONGRESS ARE WISER AT WASHINGTON THAN AT HOME, AND EXPLAINS WHY.

Albany, Dec'r. 31, 1811.

Dear Sir: I received your letter by the mail of last evening. I suspect you must have entertained the same notion which for some time possessed my mind—That members of Congress and officers of the General Government are wiser there, than when at home or in the Legislature of State. It is almost as

natural to form that conclusion as it is to presume a boy, who is in the senior class of college, knows a great deal more than a Freshman. Upon mature reflection I have made up my mind that by going to Washington men do not become much wiser because my experience has shewn me that they do not become much better, which would be an inevitable effect of an increase of wisdom. Although, therefore, I am sorry for your disappointment in not finding sufficient cause for your profound reverence yet I am not much surprised at it.

Did I know in what way I could be further serviceable to Phenix & Co. it would give me pleasure to pursue it. I rather incline to the opinion that the reorganization of the District Court and the appointment of an industrious, healthy and learned judge of the District such as may be found at Washington (Paulding, yourself, and Parker) or may be picked up in this state, will furnish as speedy a remedy as any that is practicable under existing circumstances.

Tomorrow will be a busy day for me. I have concluded to go to church on horseback; and it being intensely cold, and moreover cloudy, and indicating a severe snow storm before morning, I begin to apprehend that I shall pay for the whistle.

I am, Dear Sir, Your friend & S.

Silvanus Miller, Esq'r.*

THE GOVERNOR NOTIFIES COMMISSARY M'LEAN OF HIS INTENTION TO
SEND HIM TEN THOUSAND DOLLARS.

Albany, Dec'r 31, 1811.

D Sir: By the mail of Thursday next I shall send you a check on the New York Bank for 10,000 Dollars, 7500 to pay the

*Silvanus Miller, Surrogate of New York, August 8, 1801, to April 6, 1807; February 3, 1808, to March 20, 1810, and from February 19, 1811, to February 13, 1821. Member of Assembly 1808 from New York.

bills you sent me & 2500 for D. Bullus & Co. on account of the contract for powder, for which you must take the receipt of Dr. Bullus, young Decatur or Mr. Rucker, who I understand compose the firm. The poverty of the Treasury and not any unwillingness on my part has been the cause of delaying so long to send you the money. I shall expect your report by the day the Legislature meets, as I wish to lay it before them with my speech. Your son is well. Please to present my respects to Mrs. Maclean.

John McLean, Esqr.

GOVERNOR TOMPKINS INTRODUCES COLONEL JASPER WARD TO MR.
SECRETARY HAMILTON.

Albany, January 3, 1812.

Dear Sir: I could not determine from your letter what kind of agency you had in view and, therefore, have worded my letter to the secretary in general terms as to the object of your intended application. I take it for granted that you did not allude to the office of navy agent which is at present filled satisfactorily by D. Bullus, for whom I have great regard and esteem, and to whose removal or injury I would by no means contribute.

Colonel Jasper Ward.

Albany, January 3, 1812.

Sir: Col. Jasper Ward of the city of New York has intimated to me by letter his intention of soliciting from the General Government an agency under your department, which agency it is expected will be created by the contemplated act of Congress to increase the navy.

With the precise import, however, of the agency to which his letter refers I am not made acquainted. My knowledge of Col. Ward from his youth enables me to say, that he is the son of one of the most enlightened and firm revolutionary characters of Westchester County, is a Gentleman of respectability in

the city of New York where he resides, has administered several civil and military offices there with credit and usefulness, and is and always has been a decided republican.

I, therefore, cheerfully recommend him to your notice and to the patronage of Government. I need not hardly mention that this communication is not intended to have any reference to the office of navy agent which is at present filled by an incumbent for whom I entertain great friendship and esteem both as a gentleman and publick officer.

The Honbl. Paul Hamilton.

THE GOVERNOR PAYS A POWDER CONTRACT ACCOUNT.

Albany, January 3, 1812.

D Sir: I now enclose you two checks on the Bank of New York, the one for 7500 Dollars to pay the account with vouchers which you sent to me and the other to advance to Bullus, Rucker & Co. on account of the powder contract. For the latter you must take duplicate receipts and send them to me as soon as possible.

John McLean, Esqr.

TREASURY PAYMENTS HELD UP BECAUSE OF THE FAILURE OF A
LOTTERY TICKET FIRM.

Albany, January 4, 1812.

Gentlemen: I should have instantly made the remittance mentioned in your letter of Nov. 30* had it not happened that the Treasury was at that time considerably exhausted by the heavy drafts which had been made on it recently in consequence of the failure of Naphtale Judah and others, purchasers of tickets in the last State Lottery, and in consequence of the

*New York, Novr. 30, 1811.

Sir: Having made a purchase of a quantity of Saltpetre we will now accept of the advance which you offered us and will thank you for a remittance of three or four thousand dollars.

We have the honor to be very respectfully Your Ob. Servants.

Bullus, Decatur & Rucker.

His Excellency Daniel D. Tompkins.

calls for Military purposes &c I was, therefore, compelled to wait untill the first instant for it to be sufficiently replenished.

By the mail of last night I remitted to John McLean, commissary of Military Stores checks on the New York Bank for ten thousand Dollars, Two thousand five hundred of which he is directed to pay to you.

Bullus, Decatur & Rucker.

THE GOVERNOR REQUESTS COLONEL CURTENIUS TO FORWARD A BOUND
CENSUS RETURN.

Albany, January 4, 1812.

Dear Sir: I have been furnished by Mr. Monroe, Secretary of State, with a return of the enumeration of the inhabitants of the United States. If you have had the return of the number in the several towns of this state printed, I will thank you to send me a copy by mail, which may be bound with the General or aggregate Return, by counties, of the United States. If you are not possessed of a printed copy be pleased to let me know whether a manuscript copy can be procured for print, should the Legislature direct the publication of the enumeration in the several towns?

Col. Curtenius.

A TEMPESTUOUS NEW YEAR'S DAY FOR THE GOVERNOR AND MILITIA
TO ATTEND CHURCH.

Albany, Janu'y 4, 1812.

D Sir: Yours of the 30th Decr. was received by the mail of last night and the box of raisins came to hand this morning.

The pardon for Peterson is enclosed. I believe Mr. Gahn was willing to have a condition that he should leave the country inserted in Peterson's pardon. Not being certain of that, how-

ever, I have sent an unconditional pardon and will rely upon Mr. Gahn to send him off provided that was his understanding and intention when I was applied to in New York.

With the pardon please to convey to Mr. Gahn an assurance of my sincere friendship and esteem.

Mrs. Tompkins and myself are rejoiced to hear of Mrs. Macomb's better health, and present our sincere regards to her and yourself with the compliments of the season. I invited all the General, Field and staff officers of Divisions, Brigades and regiments in and near this city to assemble at my quarters at ten o'clock on New Years Day to go to church on horseback; every delinquent officer equipped himself and was out in uniform. But the day was so tempestuous and the rain which fell was frozen into such an universal sheet of ice, that scarcely man or horse could keep upon legs. A council of war at ten o'clock decided in favour of sleighs, but several of the officers came up afterwards and went to church with us on horseback, and on coming out of church we found about 20 of a beautiful company of cavalry waiting to escort us home; which they did in very correct and elegant style in defiance of the weather. I was then visited by nearly the usual number of citizens.

Col. Macomb.

P. S. I send another letter to the secretary of war in favour of Spoull & Fink.

THE GOVERNOR'S CORDIAL INDORSEMENT OF MESSRS. SPROULL AND
FINK FOR MILITARY COMMISSIONS.

Albany, January 4, 1812.

Sir: Mr. John Sproull and Mr. Jo. L. Fink are anxious for appointments in the army of the United States. They have,

heretofore, been appointed officers in the militia of this state and have raised an uniform company.

They are handsome, ardent young men, possessed of a great degree of military enthusiasm, and sustaining good moral characters and I, therefore, cordially recommend them for appointments in the army of the United States.

The Honbl. William Eustis.

GENERAL PAULDING URGES PREPARATIONS FOR HOSTILITIES—THE
RICHMOND, VA., THEATRE HOLOCAUST.

City of Washington, 29 Dec'r, 1811.

Dear Sir: Publick measures progress here in their usual manner—very slow indeed. It appears to me from the apparent reluctance with which the leading men of our house proceed in making preparations for war, that they are impressed with a belief that England will, at no very distant period, accede to our just demands. There is nevertheless, in my opinion a settled and firm determination in the administration and in Congress, to proceed to war with England unless she ceases to violate our neutral rights. But preparation ought and will, I presume, precede active hostilities.

For this purpose a considerable portion of time must of necessity elapse, from the nature of our political institutions, which are better fitted for caution and deliberation than for promptitude and action.

The committee of foreign relations, to whom was referred a bill from the senate to raise an additional force of 25,000 men, have proposed to reduce that number to 15,000 non commissioned officers and privates. This Bill as amended, has not yet been considered by the House of Representatives.

Messrs. Townsend and Parker are here and have received a tender of my services.

Accounts have just arrived at this city of the destruction by fire of the Theatre at Richmond,* in which were unfortunately consumed the Governor of Virginia and his lady, and many other of the most respectable inhabitants of that city. The number of lives lost by this accident it is said exceed forty.

I pray your Excellency to accept the assurance of my sincere friendship.

Wm. Paulding, Jun.

His Excellency Governor Tompkins.

THE GOVERNOR RECOMMENDS JONAS HOLLAND FOR AN ARMY COM-
MISSION.

Albany, Jany. 9, 1812.

Sir: Mr. Jonas Holland, Inspector of the Brigade of Militia, which includes Schenectady in this state, feels a disposition to enter into the regular service. His talents and military qualifications are highly respectable and he is of good character and

*On the night of December 26, 1811, the Richmond, Va., theatre took fire while crowded with spectators, of whom upwards of 70 perished—among them the Governor of the State, George W. Smith. A church known as the Monumental Church was erected on the site.—STATE HISTORIAN.

standing. He is, moreover, a republican and a zealous Patriot. I, therefore, take great pleasure in earnestly recommending him for the office of captain in the Regular Army.

Mr. Holland resides at Schenectady & is about thirty years old.

The Honbl. William Eustis.

THE DISPUTE BETWEEN MESSRS. FORD AND EDSALL LEADS TO JACOB BROWN'S PROMOTION AS A BRIGADIER GENERAL—THE GOVERNOR'S EXHAUSTIVE REVIEW OF THE CASE.

Albany, January 13, 1812.

Sir: It was out of my power to answer your letter received in October last fully and accurately until my arrival at this place where were your former letters and the records of the council.

My first knowledge of your pretensions to command the St. Lawrence Regiment of Militia was derived from your letter of the 13th of September 1807. Upon the receipt of that letter I made enquiry into the business and found that the Council of Appointment, had in the original organization of the St. Lawrence Regiment, appointed Edsall, first Major, and you second Major, and that both of you had qualified and had served for one or two years in those respective stations. Upon the death of Lieutenant Colonel Turner, Edsall became entitled to that promotion. In the winter 1807, however, the Council appointed you Lieut. Col. over his head. But at the June session of the same Council they ordered the Secretary to retain your commission. The object of your letter above mentioned was to request me to order the Secretary of State to send on that commission,

notwithstanding the direction of the Council to the contrary. With this request of yours, I decline to comply, for reasons which I presume were perfectly satisfactory to you. In the first place, I had just come into office and had received no information from my predecessor or the members of his Council of the motives which induced them to direct the detention of your Commission. In the next place had I known the real cause it would have been an unwarrantable assumption in me to attempt to controul the Secretary in relation to duties prescribed by Statute, in performance of which he was totally independent of my authority, and for the neglect of which he alone was responsible. Besides I was invested with no power of enforcing a compliance with my order in case of disobedience on the part of the Secretary; and it would, therefore, have been indiscreet and absurd in me to have issued an illegal nugatory order of the import which you requested. Lastly—The examination of the papers on file, enabled me to conjecture the causes which operated upon the Council to withhold the commission, which as far as I could then ascertain them from the papers, appeared to be satisfactory. They were these: Major Edsall being commandant of the Regiment upon Turner's death, did in the winter of 1807 make a return for promotions and appointments. This return was signed by you also, and requests the Council to promote the field officers according to right. This return is now before me and it appears by an endorsement in the handwriting of Solomon Van Rensselaer, then Adjutant General, that the Council refered it to Judge Ford. A very extraordinary reference to be sure! considering that Judge Ford was civil officer only and was moreover brother of the Second Major: but the reference very naturally accounts for the appointment of that Second

Major over the head of the First Major. The result of the reference accordingly was, that your signature was erased from the return wherein you had requested the promotions to be according to what was right and is interlined in the handwriting of Solomon Van Rensselaer at the head of the return for Lieut. Colonel. The Council did undoubtedly, as matter of course make the appointments according to the return after referring it to persons in whom they then had confidence. Before their June Session, they had probably been made acquainted with the palpable violation of Major Edsall's rank (of which they had been made the innocent instruments) and believing that they had been imposed upon at the winter session, did I presume for that reason, order your Commission as Lieut. Colonel to be withheld. There is a strong impression upon my mind that about the time my answer must have reached you, I received your second letter enclosing and resigning your Major's commission. I cannot at this moment lay my hands on that letter (perhaps it is filed with the Adjutant General); you must, therefore, understand me to speak of that circumstance from memory alone.

Judge Ford alledged in 1807, that it was the intention of the Council originally to have appointed you first Major and Edsall second Major—that this was prevented by a trick, as he pretended, of Mr. Thorn (which had since been explained) and that Major Edsall had agreed to submit it to the Council and to be satisfied with their decision, and in your letter to me you mention the same thing in substance and represent that you sent your claim, but that Edsall came personally to support his before the Council. It was also stated by Judge Ford to Genl. Martin, that Edsall had agreed to relinquish in your favor.

Besides this, in a written communication addressed to the Council, Judge Ford declares that Major Edsall came to his house previously to the return of 1807—that he, Judge Ford, stated to him there in your presence, the trick which Mr. Thorn had played, and that Major Edsall said “that under those circumstances he was willing to relinquish.” On the contrary, the violation of Edsall’s rank was complained of and Judge Ford’s representation denied, and what appeared very strong in favor of the accuracy of Edsall’s friends on that point, was that if he had relinquished his claim to promotion to you before the winter of 1807, he would scarcely afterwards have made the return which I have before mentioned, and you would hardly have put your name at that time to that return under his and as his subordinate officer. In addition to this, it was represented to me by persons whose veracity cannot be questioned, that in the fall of 1807, the Brigade Major informed Major Edsall, Genl. Martin had told him of a representation by Judge Ford, that he (Edsall) upon being made acquainted with the conduct of Mr. Thorn had agreed to relinquish his claim to be Lieut. Colonel in your favor. The truth of that representation Edsall denied, and called upon Judge Ford to point out the time when and the place where he had ever expressed a willingness of that kind. That Judge Ford did there in the presence of the Brigade Inspector and others disavow that he had ever said anything of the kind and declared that one who said he had, was a damned liar. I have been so minute as to quote the very words of one of Judge Ford’s communications to the Council to convince you, if the Judge did deny or take back before Edsall’s face what he had formerly said behind his back, that it is not the less true that he had made such representation, for I now have it before me

in black and white over his own proper signature with these statements, denials and contradictions; the business came before the Council of 1808 & 1809 who deemed it the safest and most equitable course to resort to and be governed by evidence which could not be equivocal—the written documents and the records of the Council. It appeared by them that the first Major's commission of Edsall & your second Major's commission were the first and only ones either of you ever held in the militia of this State—that you had qualified to and officiated under those respective commissions, from the organization of the Regiment to the winter of 1807, and that then you had been appointed Lieut. Colonel of the Regiment over the head of your senior officer in manifest violation of his feelings, his legal rank and Military usage. The Council of 1809, therefore, superseded you and restored Edsall to his rights.

The regiment remained in that situation until 1810, when the Council of that year, influenced as I presume by the repetition of your brother's statement (which it is alledged he disavowed when Edsall challenged him with it) removed Edsall and appointed you Lieut. Colonel a second time. Last year (1811) the business again came before the Council when it appeared on the one side that there were objections to the restoration of Edsall not connected with his legal rank and claims, and on the other hand it was evident that you had been twice advanced over his head in derogation of Military rank: and it did not seem just that you should profit by or retain the benefit of that wrong. Besides, the disputes and controversies between Edsall and yourself, and your alternate removals and restorations, had prevented the Regiment from training at all one year, and had kept the Militia of St. Lawrence County during the whole

time in an unsettled, undisciplined, disorganized state, at a time too when the public safety and good, imperiously demanded more than ordinary attention to the improvement and discipline of the Militia in frontier Counties. Under the above circumstances the Council of 1811 judged it to be prudent and most conducive to the advancement of the peace [and] prosperity of the Regiment, to dismiss both of you, and accordingly removed you and omitted to reappoint Edsall, by means whereof the Regiment has devolved upon gentlemen not liable to objection nor implicated in the dispute which had kept the regiment in a ferment for nearly four years, and it is represented that the tranquility and improvement which were anticipated by the Council have followed this last arrangement.

It must be obvious to you that no personal or party considerations could have influenced the Council in making the last mentioned arrangement, because you were unknown by all the members, and because your successor Col. Benedict is, as I am informed and believe of the same political principles with yourself and equally decided and influential. It was truly a measure dictated by the unhappy continuance of a controversy, in which you and your brother were the first aggressor, by procuring your promotion to the command of the Regiment to the insult and injury of your acknowledged superior officer.

I am as much opposed to indirect removals, in crowding men out by the violation of their rank, as you are; and should not, therefore, have consented to appoint Col. Brown a Brigadier, had you then been in office. But the Council had determined on your removal previously & they intended to face the responsibility of a direct supersedeas. If you have not been served with one hitherto, it is owing to some mistake or neglect at the Secretary's office which shall be remedied.

By declaring the decisions in 1808 & 1809 & 1811 to have been made by the Council, I do not intend to screen myself from a participation in the responsibility of those proceedings. On the contrary, I frankly avow that I not only acquiesced in and approved of them, but advised them; and I am not without hope when you divest yourself of the feelings and impressions which those proceedings unexplained may have made upon you, and dispassionately review the whole state of the case as it was exhibited to us and as I have now fully and impartially detailed it to you, that if you do not approve, you will candidly admit that there are no just grounds to condemn our measures.

David Ford, Esquire.

GUILFORD D. YOUNG RECOMMENDED BY THE GOVERNOR FOR A
COMMISSION AS MAJOR IN THE ARMY.

Albany, January 13, 1812.

Sir: Mr. Guilford D. Young of Troy was about two years since recommended for a Major in the army as will appear by the papers on file in your office. His disposition to devote himself to the service of his country in a military capacity still continues. I, therefore, beg leave to refer you to his former credentials & to repeat my wish that his application may be successfull.

The Honbl. William Eustis.

Albany, January 13, 1812.

D'r Sir: Mr. Youngs has brought me a letter from P. G. Hildreth, Esqr. mentioning that Mr. Y. is desirous of obtaining the appointment of Major in the Army, & declaring his opinion that he is qualified for the station & his wish that he may suc-

ceed. I am not personally acquainted with Mr. Youngs &, therefore, am unable to speak of his Military qualities, moral character or fitness for the office, otherwise than from the above mentioned letter & from his personal appearance which is prepossessing. He informs me that he can procure ample credentials on those points in New York, and I have given him this letter of introduction to you, to the end should he shew you satisfactory testimonials as to character, he may be benefited by your introduction & recommendation of him to the notice of Government.

The Honbl. Wm. Paulding, Junr.

THE GOVERNOR AND THE COMMISSIONERS OF THE LAND OFFICE.

Albany, January 13, 1812.

Gentlemen: Your communication under date of the 4th inst. came to hand last evening. It will be observed that the act passed 11 April 1808* requires the Surveyor General to lay out the land to be sold for the purpose therein mentioned under the direction of the commissioners of the land office; although the Governor is nominally a member of that board, he is by law excused from personal attendance and has not, therefore, been notified of or attended its meetings, with one or two exceptions for ten years past.

* Sir, By an Act of the Legislature passed April 11, 1808, the Surveyor General was required under the direction of the Commissioners of the Land Office to lay out so much of the unappropriated lands of the state as in his estimation should produce a sum not exceeding one thousand dollars and should sell the same after the expiration of two years from the passing of that act and under the direction of your Excellency apply the proceeds to the erection of a monument over those American citizens who perished in the Jersey prison Ship.

Having been appointed a Committee by Tammany Society to enquire of your Excellency whether the appropriation and sale of land had been made we would respectfully request of you information on the subject as the Society is extremely desirous that the object of the act should be speedily accomplished.

We are sir with sentiments of the highest respect, Your Obedient Servants,

Alp's Sherman, Wm. J. Waldron, Garret Sickles, Peter Embury.

His Excellency D. D. Tompkins.

New York, January 4, 1812.

Upon receipt of your letter, I addressed a line to the Surveyor General upon the subject, who in answer, informs me that the attention of the commissioners has not, heretofore, been called to the duty prescribed by said act. A copy of his answer is enclosed.

So soon as I shall be advised by him of the sale of the land and of the receipt of the one thousand Dollars, I shall promptly discharge my duty by directing its immediate application to the object contemplated by the Legislature.

Alpheus Sherman, Wm. J. Waldron, Garret Sickles & Peter Embury, Esquires.

THE GOVERNOR ASSISTS THE MILITARY AMBITION OF HUGH R. MARTIN.

Albany, January 13, 1812.

Sir: Mr. Hugh R. Martin of Schenectady intends to present himself as a candidate for the army. He is a young gentleman of good character & standing in Society, of moral and amiable deportment and of the age, figure and military qualifications calculated to make him a useful and dignified officer. I, therefore, cheerfully recommend his application to the favorable notice of Government.

The Honbl. William Eustis.

THE GOVERNOR BRINGS THE YOUNG GENTLEMAN TO THE ATTENTION
OF UNITED STATES SENATOR GERMAN.

Albany, January 13, 1812.

Dear Sir: Mr. Martin, with whom I believe you are slightly acquainted, proceeds to Washington in a few days to present himself as a candidate for an appointment in the Army. His private character, respectable standing in Society and Military appearance and qualifications induce me warmly to recommend

him to your friendly assistance and advice in the pursuit of the object of his mission.

The Honbl. Obadiah German.*

THE GOVERNOR RECOMMENDS DR. ADAMS FOR A COMMISSION AS
SURGEON IN THE ARMY.

Albany, 13 January, 1812.

Sir: The recommendation of Dr. Alpheus Adams, of the City of Hudson, for the office of Surgeon in the army, signed by the Mayor and other respectable Republicans of that City, was I think forwarded by me to your Department in November or December last. As some doubt, however, exists in my mind upon that point, in consequence of the papers having been handed to me at the moment of my departure from the City, I beg your indulgence for troubling you now with an assurance that Dr. Adams sustains a good, moral, political & professional character and is in every respect suitable for and worthy of the station he solicits.

The Honbl. William Eustis.

THE GOVERNOR SHOWS THAT LEGISLATIVE CONDITIONS ONE HUNDRED
YEARS AGO WERE SIMILAR TO THOSE OF TO-DAY—HE FORE-
SHADOWS HIS PROROGUING THE LEGISLATURE.

Albany, January 13, 1812.

Dear Sir: The manner in which the building of the Arsenal at Elizabeth Town, Essex County, has been conducted has com-

* Obadiah German was born in Dutchess County, New York, in 1767; received an academic education; removed in 1792 to Norwich, Chenango County, New York; was a member of Assembly in 1798, 1804, 1805, 1807, 1808, 1809; elected a United States senator from New York as a Democrat, serving from May 22, 1809, to March 2, 1815; voted against declaring war with Great Britain, but, after hostilities had been commenced, did all in his power to support the war measures of the administration; again elected a member of Assembly in 1819, and chosen speaker; was for some years first judge of Chenango County, loan commissioner, and brigadier general; became a zealous Whig; died at Norwich September 24, 1842.

pelled me to send Mr. Chauncey Humphrey there to examine the buildings and adjust the title and Accounts with Mr. Frisbee. After he had got so far, I thought it was as well for him to proceed to Plattsburgh to receive from you and convey to me any recommendation which you may feel disposed to make relative to the adequacy of the supply in your quarter in case of hostilities with great Britain—relative to the state of the property in the Plattsburgh Arsenal—relative to the state and discipline of the Militia in that direction & their equipments, relative to any objects of importance touching the means and course of defence or actual warfare upon an emergency, and relative to such other matters of security as may require my attention or that of the Legislature.

With respect to the vouchers which Mr. Delance mentioned to you as wanting to substantiate my accounts at Washington, I can only say that Mr. Simmons or Mr. Brent informed me they were wanting. But upon sending on Col. Livingston one of my aids in December to adjust the accounts without any additional vouchers, behold everything was found to be satisfactory and my dues allowed without one cent deduction. It only cost me one hundred Dollars to send on an agent to settle them in addition to the Int. of my money, postage, vexation &c. But I consider the patience I have been taught, and the experience I have acquired from that unpleasant protracted cavilling about my accounts, constitutes a fair offsett to my pecuniary loss and so I take my leave of obstinate Will Simmons, the Accountant.

I perceive that there are number of applications to be made for Banks this winter, amounting in the whole to about fifteen millions of Dollars of capital, being more than the capital of all the existing banks. You may remember, my dear sir, that when

we were in the Legislature in 1803, many members took the Sixteen reserved shares and immediately sold them for a profit of six Dollars a share. This first learned them the taste for making money in that way. I believe you, as well as myself and others, declined all interference with their shares. I have no doubt the object of the Directors in receiving the shares in that case was honourable, but the profit then made gave the members a smack of something which has depraved their appetites ever since. Last year a scene was exhibited in relation to the Union Bank which so disgusted me and wounded my feelings, that you must not be surprised if I should conclude to awaken the slumbering community and dissipate the apathy of their public agents who are still honest, by exercising the Constitutional right of proroguing the Legislature for sixty days and throw myself upon my constituents. This will give the members an opportunity for reflection, for consulting their Constituents—for testing public sentiment by an intervening election and will, moreover, diffuse an useful knowledge and understanding amongst the citizens at large upon the moving cause for such prorogument. I know that when the pernicious tendency of Banks is understood by the people at large, and the modern motives for applying for and granting them are duly appreciated nine-tenths of the Community are opposed to the further multiplication of them.

Were not the papers muzzled, the common people would have a chance to become acquainted with the subject. But the outdoor association of last year, either by purchasing their silence or by interesting men in their views who were deemed to controul the respective Republican presses, obtained the incorporation of the most unprincipled, unpopular, Federal Institution in

the Country whilst a deathlike silence upon the subject prevailed with all the Republican Editors. The same ascendancy over those channels of public information may be again perhaps obtained. As it always happens that success in one enterprise emboldens attempts at others, some of the Ringleaders of last year have been busy in arranging the terms and manner of bargaining away other Charters next winter & I am afraid they will succeed. How humiliating & mortifying to an honest, upright, devout Republican must it be to learn that a combination of Individuals, not belonging to the Legislature, can for a stipulated sum to be divided amongst themselves, or distributed as they may think proper before its meeting, bargain away the vote of such Legislature? Yet such things have been, and I sicken at anticipating that they are again to happen with more extensive and destructive influence upon the morals of Community. Were the real motives which govern many of the Members disclosed to and believed by the common people, Republican Government & Republican Institutions would not long survive; for this permanency depends upon the virtue of Rulers and upon the confidence of the Community at large in that virtue.

Should not a Salem friend of ours have visited and persuaded friend Arnold during the fall into the faith which the former has recently held & practiced & should you view the end to which the Bank mania is propelling us in the same light, I do [hope] you will render a public service by confirming his resolution before he leaves home against the insidious & unsuspected acts by which he will be assailed during the session.

I trust you will excuse the freedom I take in suggesting that this is intended for your own eye only, that you will with equal readiness pardon the frankness and length of this letter when

I assure you that my sensibility has been deeply excited by the cupidity and avarice of Representatives and public officers, which I have for two years past witnessed to have been gratified in several instances at the expence of violating official obligations of countenancing & partaking in speculation, bribery & gross immorality; and that the prospect which the recollection of these things brings across my mind has given me many a pang.

Please present my affectionate regards to Mrs. Saily, your daughters and Captn. Frederick, & receive an assurance of my great respect and esteem for yourself.

It had almost escaped me to mention, that by concurrent resolutions of last year, the Governor is authorised to purchase of the St. Regis Indians, their lands lying within this State. But the danger of exciting unjust suspicions of tampering with them under apprehension of a rupture with England, has restrained me from attempting to perform that duty whilst our relations with Great Britain remain in a suspicious, unsettled posture. I shall, however, in the Spring make arrangements for a treaty and will, therefore, thank you to inform me through Captn. Humphrey or otherwise, what time of the year will be most adviseable to negotiate with the St. Regis tribe—who are the proper agents to employ for the purpose of preparing their minds for a sale—what chiefs and warriors must be secured to our interest to accomplish the purchase & what will the probable expence of a treaty including secret service money & exclusive of the confederation and annuity for the land. Perhaps Judge Bailey can impart some useful information on that head.

The Honbl. Peter Saily.

THE GOVERNOR'S INSTRUCTION TO CAPTAIN HUMPHREY CONCERNING
MR. FRISBEE'S RESPONSIBILITY FOR PUBLIC PROPERTY OF THE
STATE.

Albany, 14 Jan'y, 1812.

Sir: The business upon which I have, heretofore, spoken to you and for the transaction of which you are requested to proceed to Elizabeth Town, Essex County & to Plattsburgh in Clinton County is contained in the following questions & remarks. I will thank you to ascertain & report upon all the points subjoined.

1. How much land does Mr. Frisbee own in the village or did own on the — day of ———— when he conveyed the Arsenal lot to the State.

Remark—The Comptroller is unable to lay his hand at this moment upon the deed of Frisbee for the Arsenal lot which excites some slight fear in my mind that it may have been mislaid. You will, therefore, particularly note down Mr. Frisbee's admissions of having executed and delivered a deed for the Arsenal lot to me, of the date which he supposes it bore—& other particulars relative to it. Ascertain also whether it was acknowledged or recorded in his office of Clerk of that County and whether his wife signed & acknowledged the conveyance or not. If she did not it would be well to take a release of Dower from her; which she must acknowledge and in which her husband may as a party reciting the supposed date, boundaries & import of the former deed. Such a release with such recitals might operate as a deed of confirmation if the original conveyance should not be found.

2. What is the value of the residue of his land & buildings not included in the Arsenal Lot.

3. What mortgages or judgments recorded in the Clerk's office of the County of Essex are still unsatisfied—Who owns them and where do the owners reside.

Remark—Mr. Frisbee informed me that the only incumbrance existing against the land was an ancient mortgage which was owned by one Thorne in Dutchess County, and that he had paid a certain sum say 25 dollars to Thorne in consideration of which Thorne was to send a release for the State Lot. I have recently understood that Thorne does not own the mortgage & that, therefore, Mr. Frisbee's statement to me must have been fallacious—I wish the proprietor of this mortgage to be clearly ascertained if possible.

4. What are the dimensions, workmanship, state of completion, & security of the building erected under the auspices of Mr. Frisbee. Of what materials are the roof, sides, foundation, pillars &c; is it ceiled on the inside or calculated to be, and if so, are the boards seasoned, planed &c.

5. What is the quantity of materials of each description used in the building, what is the current price of each & of the labour & Board of Mechanics & others necessarily employed at it.

6. Call upon Mr. Frisbee for an exhibition of his acct & vouchers relative to the building and require him either to settle the acct on the spot or come forward to Albany and do it without delay.

7. What is the quantity, state of preservation and security of the State property lodged in Mr. Frisbee's care. Examine & count all the Muskets, Cartridge boxes, Cartridges, Cannon shot & other articles & note their deficiencies.

8. If there be articles missing or ruined by any gross neglect on the part of Mr. Frisbee, you are hereby fully authorised and

empowered at your discretion, to resume the possession of the public property remaining and deliver it into the care of Major Skinner, or of such other person as may be advised by Judge Jenks, Judge Kellogg, Sheriff Kirby, Mr. Delance & others to be most suitable and take a receipt therefore, with a bond in the penalty of 6,000 Dollars condition as follows:

Whereas the property of the people of this State consisting of the following articles, viz. (here insert an accurate inventory of the property) have been delivered to _____ for safe keeping as superintended out of Military Stores at Elizabeth Town, Essex County for which he is to be compensated according to law, now the condition of this obligation is such that if the said _____ shall well and faithfully perform the trust reposed in him & deliver up the said property whenever required by the Commander in Chief, Commissary of Military Stores or other proper officer for the time being in as good condition and state as the said articles now are reasonable & unavoidable deterioration arising from the storage or nonusage of such articles & inevitable necessity excepted, then this obligation to be void otherwise to remain in full force and effect.

9. After you have fully ascertained and adjusted the preceding matters you will proceed to Plattsburgh in Clinton County. Mr. Saily, Genl. Mooers, Judge Platt, Judge Delord, Judge Smith, Col. Durand, Mr. Nicholls, Capt. Greene, Lieutenant Smith & others, will give you all the information about the militia property there necessary, and about every other object of preparation or defence both on the lake and on the land which will become adviseable or indispensable in the event of a rupture with Great Britain in the Spring or Summer.

All of which information you will please distinctly to note down and report to me.

I have written to Mr. Saily to inform me now or at any other time, whether there is any probability of negotiating a purchase of the Lands of the St. Regis Indians which I am authorised by law to make. If yea, at what time ought it to be attempted, through what agents ought they to be prepared for a treaty, & what extra payments or secret service money will be requisite to influence the principal chiefs & warriors.

After these duties are thoroughly performed you can return in such route and with such expedition as your own comfort and business may require.

Chauncey Humphrey, Esqr.

GOVERNOR TOMPKINS NOTIFIES WILLIAM RAY THAT A SPECIAL AGENT
IS INVESTIGATING THE MATTER OF PUBLIC PROPERTY AT
ELIZABETHTOWN.

Albany, January 14, 1812.

D'r Sir: In consequence of the representations of Judge Jenks and of the suggestions of yourself & others, I have sent an agent to enquire into every matter touching the public property & building at Elizabeth Town, by whose report I shall govern myself as to the future disposition of the Arsenal & its contents. Chauncey Humphrey, Esqr, proceeds to Essex for that purpose and is the bearer of this letter.

A communication from Judge Pond and your several letters have been duly received. It must be obvious to you that the office you mention must be disposed of in consonance with the opinion of our friends within the County. It would not be deli-

cate or correct in me to countenance the removal of the present incumbent, until I am acquainted with the facts which dictate it, or after the removal is determined, or to consult & gratify my private wishes at the expence of controuling or affronting the sentiments of the Republicans of Essex by making county appointments hostile to their wishes, or to what they might probably deem best calculated to promote the public good. You must, therefore, be convinced that the success of your intended application must depend materially upon the countenance and support it may receive from the Republicans of Essex who are most immediately interested in it.

It gives me pleasure to find several respectable persons have already espoused your interest and that I have heard except from yourself of no rival although I cannot interfere to any great extent in the appointment yet I can assure you that no one will feel a more lively satisfaction than myself at finding your claims patronized from the proper quarter & at witnessing your advancement and prosperity.

William Ray, Esqr.

JUDGE JENKS ALSO NOTIFIED BY THE GOVERNOR.

Albany, January 14, 1812.

D'r Sir: In consequence of your friendly intimation concerning the State of the Public property in Essex County, I have engaged the bearer, Chauncey Humphrey, Esqr., to visit your place and make enquiries and report to me upon all the points which are connected with or concern the property of the State deposition at Elizabeth Town. I have taken the liberty to refer and introduce him to you in hopes that will yield him your

advice and information in every particular in which it may be useful to him or facilitate his enquiries and duties.

Judge Jenks.

THE GOVERNOR LIKEWISE INFORMS MR. SIMEON FRISBEE OF THE
FACT.

Albany, January 14, 1812.

D'r Sir: The uneasiness which has been created in my mind by rumors which have reached me and by direct applications from persons in Troy, who say they hold unsatisfied judgments against you, docketed anterior to your conveyance to the state of the Arsenal lot under which judgments they expect to be able to arrest the property & buildings belonging to this State & and to sell it for the payment of their demands against you, together with the anxiety which I have repeatedly manifested to you in person at the procrastination which has taken place in the erection & completion of the edifice confided to your management, constrain me to require a prompt & full account & explanation of all the matters which implicate the interest of the State. I have, therefore, deputed Chauncey Humphreys, Esqr., of this city as my authorised and accredited agent, to discuss and adjust difficulties existing between the Public & yourself, & to act in the premises as amply & fully touching the examination, possession and future disposition of the military stores heretofore committed to your care, and touching the liquidation & settlement of your account as I could do, were I personally present & request you to communicate and deal with him accordingly.

Simeon Frisbee, Esquire.

THE GOVERNOR FAVORS STATE OWNERSHIP IN AN ARMOR AND
CANNON FOUNDRY.

Albany, Jany. 15, 1812.

Sir: Yours of the 6th instant has just been received. It is my intention to propose and to encourage the Legislature of the State, to patronize an Armoury & Cannon Foundry on the Hudson, provided persons of suitable character and enterprise and mechanical genius shall commence the undertaking. I have accordingly encouraged Mr. McQueen, & Commissary McLean, to embark in such an establishment and have assured them of my exertions to procure from the State an adequate loan for the purpose upon the most advantageous terms. Until I learn whether they mean to avail themselves of my suggestion & promise it would obviously be improper for me to hold out any encouragement or inducement to others, further than to say that I am in favour of and shall lend my exertions to the establishment of such an Institution.

Mr. Roswell Lee.

VALUE OF PROPERTY ON THE BOWERY IN 1812.

Albany, January 15, 1812.

Gentlemen: I have this moment been favoured with your communication under date of the 11th instant advising me of the contemplated [sale] of Dr. Arden's property in the Bowery.*

I had once (1806) an inclination to be concerned in the purchase of that property and made an offer of \$25,000 or 30,000 for it. My impressions are that it cannot now be worth at the utmost more than \$20,000 judging from the depreciation of my

*The directory of New York city for 1811 gives the residence of Dr. Jacob J. Arden, physician, as Lispenard street.

own property in the vicinity; unless, indeed, the streets designated by the general Commissioners should strike it more fortunately than my recollection of the shape of the land and of the direction of those streets induces me to believe. My present circumstances however will not justify me in offering the latter sum even. I duly estimate the complaisance of the Trustees for the offer they have made to me, and whilst I am compelled to decline the acceptance of its frank and explicit terms, I hope they will duly appreciate my motives in mentioning that the Executors of David Mann are compelled by the provisions of his will to dispose of six acres adjoining or near to Dr. Arden's property, within one year from his death which year expires in July next. We have accordingly concluded to sell about the middle of April next which sale has not yet been announced. The trustees are at liberty to avail themselves of this information if they suppose the future notice of our intended sale will have any bearing upon the price or opportunity of selling Dr. Arden's property. It is also my desire and intention to dispose of a part of my own ground in the Spring, if such a price can be obtained as will afford me a very moderate profit.

Peter Wilson, Francis Arden, Esquires.

THE GOVERNOR TO COLONEL MACOMB ON GENERAL TOPICS.

Albany, January 15, 1812.

D'r Sir: Your last came to hand regularly. I am afraid you mean to take me at my word about the Raisins, which I prematurely acknowledged to have received, but I have already told you that what I then said was a white fib & I now inform you they have not arrived yet.

I was informed in New York, I think by yourself, that the Commissioners of the School Fund have reconsidered their resolution of adjournment & had fixed the time one week before the meeting of the Legislature at this City. Mr. Skinner who was here last week informed me that he so understood it. But your last letter does not manifest that you so understand it.

By a letter this day received from Genl. Paulding I am requested to send to New York all the Inspection returns delivered to me. I comply with that request by transmitting to you the only two in my possession.

When you come up, bring along the pamphlets & proceedings touching the Episcopal question in answer or addition to the Statement of Bishop Hobart which was delivered to me this morning in an envelope directed in your hand writing.

Mrs. T. has been very much indisposed for two or three days, but is so far recovered as to leave the room & resume some of her domestic cares. Please present my respectful compliments to Mrs. Macomb.

Col. Macomb.

P. S. I add the proceedings and appeal in Dr. Jacques's case for the perusal of the Adjutant General and for his draft of a general order in his usual style of elegance and force of reasoning.

THE GOVERNOR DECLINES TO INTERFERE IN THE CASE OF DR.
HOWELL, A CONVICTED FELON.

Albany, January 15, 1812.

Dear Sir: Your letter under date of January 8th has been duly received. My attention, as well as that of the Board of

Judges &c which meets at the Prison twice in each year for the express purpose of recommending suitable candidates for pardon, has, heretofore been called to the case of Dr. Howell. Nothing would have induced me to withstand the wishes of the highly respectable & much esteemed petitioners but a thorough conviction of the impropriety of my immediate interference. You know that Mr. Howell is a man of great address, accomplishments & education & have probably heard that he was reputed to have supported himself a long while before he was convicted, by a course of life far from honorable, and for those reasons the danger of his enlargement is increased. Of his guilt of the offence for which he was sentenced, no reasonable doubt is entertained, & the very manner of his proceeding in that transaction, evinces his artifice & dangerous qualifications. The Judges, Inspectors, Attorney General, Mayor, Recorder & District Attorney, were I believe unanimous in their opinion of the impropriety of his being pardoned, which is, in some measure, though not absolutely, binding upon me.

I trust you will duly appreciate my frankness in mentioning to you, that his friends can hardly calculate upon his liberation, until the board above mentioned shall think proper to place his name upon the list of semi-annual recommendations, nor will you, I hope under the preceding circumstances, deem my forbearance officially to rescue Mr. Howell from the sentence of the law, at all incompatible with the great personal sympathy and sensibility which I really feel for those respectable persons who are related to or intimate with him, and who take a lively interest in his restoration to society.

The Honbl. E. Sage.

THE GOVERNOR EXPRESSES HIS VIEWS ON CHIROGRAPHY.

Albany, January 15, 1812.

Dear Sir: I have been honored with your letter and one from Mr. Post of the 11th inst. & with a previous communication from Mr. Adams himself.

My recollection of Mr. Adams was very distinct but hesitated to forward a recommendation until advised of his moral character & standing in society with which I was but slightly acquainted before the receipt of your letter. I trust the propriety of my knowing those particulars before I certify & the importance to Mr. Adams that my recommendation to the secretary should be explicit upon those points will induce you duly to appreciate my motives for forbearing to address the War Department in his behalf until this time.

Enclosed is a communication to the secretary, the tenor of which I hope will prove satisfactory.

You must not, my friend, take it to heart that I have heretofore undervalued your Chirographical endowments, when I inform you that my former remarks upon that subject have been merely playful & when I inform you further seriously, that I concur with ninety-ninths of mankind in adjudging a hand writing some what chicken-track-ical as an invariable indication of a scholar or philosopher.

John Coffin, Esqr.

THE GOVERNOR MAKES AN EXPLANATION IN BEHALF OF MR. ERWIN
TO HIS COLONEL.

Albany, January 15, 1812.

D'r Sir: During the summer session of the Council, Mr. Erwin an officer of your Regt. called upon me, wished to resign

his office stating as his reason, that he was considerably indisposed, with a rheumatic complaint, which would prevent from attending from his duty at summer parades of his Regt. As your Regt. was almost entirely new organized at that session & as I did not know who to appoint in Mr. Erwin's stead, I advised him to retain his commission till this winter when, if his complaint continued, I would accept of his resignation; he acquiesced in that advice & solicited a furlough, which I declined to grant, but at the same time informed him, that if he continued unable to do his duty at the parades of the season—I would mention to you the preceding circumstances, which would probably prevent any fine or punishment for non attendance until the next session of the Council of Appoin't. This statement contains a compliance with that request.

Col. Sebastian Visscher.

THE GOVERNOR'S SPECIAL PLEA FOR THE APPOINTMENT OF MASTER
GRAY, AS MIDSHIPMAN IN THE NAVY.

Albany, January 16, 1812.

Sir: Some time since you were addressed by some gentlemen of this City relative to the appointment of Master Nicholas Gray, Junr., a Midshipman in the Navy. My friend, Dr. Bullus, subsequently took a memorandum of his name and age, which he intended to lay before you on his arrival at Washington with certain verbal recommendations which he received.

Genl. Gray, the father, officiates as my private secretary, and is a gentleman of unblemished reputation, of amiable manners and of a good family. The son is a sprightly, intelligent, amiable youth as any with whom I am acquainted.

The protracted sickness of General Gray has excited fears of an approaching consumption, and his great anxiety for the welfare of his children, whom he will leave in slender circumstances, has created much sensibility amongst his numerous friends. I do assure you, sir, that no appointment can be made which will yield me equal real satisfaction with that of the above mentioned young gentleman to the berth of Midshipman.

The Honbl. Paul Hamilton.

THE GOVERNOR TO DR. MILLER CONCERNING YOUNG ANDERSON'S
APPLICATION FOR AN ARMY COMMISSION.

Albany, January 16, 1812.

D'r Sir: Yours of the 12th was received by the mail of this evening. The sentiments contained in it comport with my own views of the subject.

By the same mail I was desired by Mr. Elbert Anderson, Junr., to send under cover to you, a letter to the Secretary of War in his behalf, which is enclosed accordingly.

Minthorne is less afflicted with the complaint which attacked him in New York than before we left that City, but is not entirely free from its effects.

I have no doubt it is the Salt Rheum. The rest of the family are in usual health.

Dr. Edward Miller.

THE GOVERNOR RECOMMENDS PETER DONNELLY FOR A NAVAL COM-
MISSION "BEYOND THAT OF MIDSHIPMAN."

Albany, Jany. 16, 1812.

Sir: Peter Donnelly, Junr., of this place has a solicitude to obtain a situation in the Navy, but is apprehensive that there

may be some obstacle to obtaining a Commission beyond that of Midshipman, which is not suitable to his age. He is about twenty four years old, of a vigorous constitution, makes a good appearance, and sustains a good moral character. He is decended from a respectable Whig family; always has been a Republican and thoroughly acquainted with all the duties of a sailor, so far as relates to the navigation of a Ship^e, for he has sailed in or commanded a Sloop between New York & Albany ever since he was fourteen years old. It has occurred to me that the law for equipping and manning the Gun-boats might afford an opening for some appointment for which he will be extremely well qualified. Should that be the case I take the liberty of earnestly recommending him for such office as from the above description you may judge him qualified to fill.

The Honbl. Paul Hamilton.

AND WILLIAM B. ADAMS FOR THE ARMY.

Albany, January 16, 1812.

Sir: Mr. William B. Adams, who applied for a situation in the Army, is a young Gentleman of respectable connections of good character & endowed with a degree of intelligence, knowledge of the world & military qualifications, calculated to make him a valuable & meritorious officer of the Army. He has held and discharged with reputation the office of Lieutenant in the New York Militia and I do not hesitate to recommend him to your notice as one who will discharge the duties of an officer in the Regular troops with honor to himself and advantage to his country.

The Honbl. Wm. Eustis.

THE GOVERNOR RECOMMENDS GENERAL DANIEL BROWN, JR., AS A
FIT BATTALION COMMANDER.

Albany, January 16, 1812.

Sir: I have the honor to enclose a communication which has been transmitted to me to form the basis of my recommendation of General Brown* for the Army. He has discharged the duties of his several Military Stations in this State with great propriety. I have no knowledge of his private character except from general report which is favourable. The subscribers to the within paper are the first Republican characters of Greene County, where General Brown resides. I have the utmost confidence in their representations, and doubt not but that the appointment of Genl. Brown to the command of a battalion at least would be a very adviseable and satisfactory measure.

The Honbl. William Eustis.

ELBERT ANDERSON, JR., RECOMMENDED BY THE GOVERNOR AS AN
EFFICIENT COMMISSARY CONTRACTOR.

Albany, January 17, 1812.

Sir: Mr. Elbert Anderson, Junior, having intimated to me that in the event of actual war it may be necessary for him to furnish to you further evidence of his competency to perform a war contract, for provisions than has been hitherto required, I take the liberty of stating to you my opinion that he is fully qualified and competent in every respect to the satisfactory execution of any contract he may make with the Government for a supply of rations upon a War as well as a peace establishment.

The Honbl. William Eustis.

*General Daniel Brown, Jr., of Greene County.

GENERAL GILES REBUKED AND ADJUTANT BOCKEE CAUTIONED BY
GOVERNOR TOMPKINS.

Albany, January 16, 1812.

Sir: I have received your letter containing a return of the proceedings of a meeting of the Cavalry Officers in Dutchess County. This return cannot be acted upon in its present shape. I have, therefore, returned it to you for the purpose of being sent to General Aquila Giles at New York, who is the proper organ of communication. The 67th section of the Militia law requires, that returns of vacancies & contingencies in regiments be made to the Commandant of the Brigade & he is to incorporate the regimental returns into a Brigade return & that Brigade return is to be forwarded to the commander in chief. I feel myself more particularly constrained to exact a compliance with the law in this case, insomuch as my positive direction contained in General orders of July 1810 which were served on Genl. Giles, required of him to make a return for the Dutchess Regiment nearly two years ago, has been totally disregarded: And by Genl. Orders of 9th of July last, a printed copy of which is enclosed for your information and future Government, strict compliance with the law in respect of returns for promotion was enjoined. This order was also served personally on Genl. Giles.

In addition to the above objections to receiving the return in its present state, it is perhaps proper for me to mention that in October 1810, I recd. a communication from Captn. Lounsberry of the Dutchess Cavalry, complaining of a violation of his rank in the event making the appointments then contemplated, which were I believe the same as now recommended. In

consequence of that communication I addressed a letter to Mr. [Walter] Evertson, then adjutant of the Regiment, and apprised him that legal rank must be strictly bided by in the return for that Regiment. I have been furnished with no information or facts relative to Mr. Lounsberry's claim since that time, and it is but proper to apprise you, that should your proceedings be incorporated into the Brigade return even, the appointments will not take place according to it unless that point is settled or unless your arrangement shall comport with the legal rank of the officers exhibited by the records of the council of appointment.

Copies of my letters to Mr. Lounsberry & Mr. Evertson are enclosed.

Abraham Bokee [Bockee], Esqr.

P. S. Adjutants are now to be taken from the Commissioned Officers of the line & not otherwise. I perceive you were paymaster of the Regiment, but unless you held also a Commission in the line of that Regiment, you are not qualified for the appointment of Adjutant. You must not deem this suggestion to proceed from any personal objection or unwillingness on my part to your appointment. It is only done to apprise of the difficulty, that you may obviate it if possible.

WILLIAM D. LAWRENCE'S MILITARY AMBITION ENCOURAGED BY THE
GOVERNOR.

Albany, January 16, 1812.

Sir: Mr. William D. Lawrence of New York has I understand forwarded recommendations for an appointment in the Army. The satisfactory assurances which I have recd. touch-

ing his morality, standing in society and military endowments induce me earnestly to unite in soliciting your favourable notice of his application.

The Honbl. Wm. Eustis.

THE GOVERNOR SUPPORTS COLONEL LAMB FOR APPOINTMENT AS
DEPUTY QUARTERMASTER GENERAL.

Albany, January 17, 1812.

Sir: Col. Lamb, the present Military agent for the Northern Department, is advised of the progress of a bill for the appointment of a Quarter Master General & assistant Quarter Master, which is understood will supersede the present arrangement of Military Agents.

Should the bill authorize the appointment of others than those of the line of the United States Army, Mr. Lamb wishes to be appointed deputy Quarter Master General for this Department. The highly respectable credentials which procured his appointment to the present office, need not I presume be renewed. The Military services of Col. Lamb's family, his own merit and qualifications for the office assure me, that his claim will receive the sanction of Government, unless his appointment should be incompatible with some provision in the law.

The Honbl. William Eustis.

THE GOVERNOR INDORSES THE APPLICATIONS OF MESSRS. MULLANEY
AND M'KEON FOR ARMY APPOINTMENTS.

Albany, January 17, 1812.

Sir: Mr. James R. Mullaney & Mr. James McKeon of New York are desirous of entering upon a Military life and, therefore, solicit appointments in the Army.

Mr. Mullaney has held offices in the Militia of this State for ten years past and has acquitted himself with ability and reputation. He is also a well informed Republican, of a Military appearance and turn, and of gentlemanly manners. He looks to a field officer in the cavalry for which I deem him qualified and recommend him accordingly.

Mr. McKeon has recently been breveted to the command of a very enterprising and promising company of Horse Artillery, in which he has officiated once with deserved applause. He is also a respectable man of good standing in Society, & of the same political sentiments, and would doubtless discharge the duties of a military station with usefulness and reputation. I am not made acquainted with the particular grade to which he aspires.

The Honbl. Wm. Eustis.

THE GOVERNOR ASKS GENERAL PORTER'S ASSISTANCE IN BEHALF OF
COLONEL LAMB.

Albany, January 17, 1812.

D'r Sir: By a bill before Congress provisions are made for the appointment of a Quarter Master General & deputy Quarter Master Genl. as substitutes for the present Military Agents. Col. Lamb, the Agent for the Northern Department, is desirous of being continued in his office by being appointed Deputy Quarter Master General for this Department. Should the provisions of the bill authorize it, I will deem it a personal favor if you will use your influence in Mr. Lamb's favour for a continuance in office.

The Honbl. Peter B. Porter.

ROBERT M'KOY WITH THE GOVERNOR'S INDORSEMENT SOLICITS A
SUBALTERN'S POSITION.

Albany, January 17, 1812.

Sir: Robert McKoy, of Bethlehem, in Albany County, is a young gentleman of good education and appearance & sustains a good moral & political character. He is so warmly recommended by the inhabitants of that town & persons of respectability in this city, that I feel myself authorised to present him to you as a candidate for a subaltern's Commission in the Army of the United States with an unqualified assurance of his suitability in every respect for that appointment.

The Honbl. William Eustis.

THE GOVERNOR ADMINISTERS A STERN REBUKE TO MR. VALENTINE.

Albany, January 18, 1812.

Sir: Yours of the 14th Instant was received last night. In an interview which I had with the former Secretary of War, he entreated that I would unite in no recommendations for the Army, unless I could warrant the good moral character & respectable standing in society of the candidates either from my own personal knowledge or the assurances of others. A respect for my own character also dictated an adherence to that course of conduct; you cannot be unapprised that, after your abrupt departure from New York was announced, your behaviour became the subject of frequent & free remark by your Securities, your relations, your brother officers & others, and that your conduct as a husband, a man and an officer was spoken of with great severity. I do not pretend to vouch for the truth or justice of the imputations which then obtained general credit,

but it is due to candor explicitly to avow to you, that they made such unfavorable impressions upon my mind, that I shall be restrained from complying with your request until those impressions shall be effaced.

Mr. Abm. H. Valentine.

LIEUTENANT COBB ASPIRES TO A POSITION ON GENERAL GANSEVOORT'S STAFF—THE GOVERNOR ASSISTS HIM.

Albany, January 18, 1812.

Dear Sir: Lieutenant Cobb informs me that your present aid has been promoted to a grade which disqualifies him from serving in the Staff capacity, and is desirous of obtaining your favourable notice of himself for that situation, and has solicited me to speak to you in his behalf. The state of the weather prevents my going out, and will, therefore, pardon this method of communicating to you, all I can with propriety say in the matter. Lieut. Cobb appears to be a young gentleman of modesty, intelligence and of prepossessing appearance and his general character since he has resided in Albany, according to my hearing and belief, is that of a retired, studious, moral young man. If this simple statement should influence your mind in his behalf, I shall be happy to have contributed so far to Mr. Cobb's advancement & welfare.

Genl. Gansevoort.

POLITICAL AFFILIATIONS TO BE CONSIDERED IN THE MATTER OF
MILITARY RECOMMENDATIONS.

Albany, January 19, 1812.

D'r Sir: Yours of the 15th arrived after the mail of this evening had closed. Your assurances with respect to Mr. Cot-

ton are so full & satisfactory to leave no hesitation in my mind about the propriety of complying with his request, & I have accordingly enclosed a letter in his behalf. The Intelligence, moral & political character and standing in society of the candidates, are the points upon which I wish to be informed before I unite in a recommendation. Your letter now before me is full upon all those points except the political character of Mr. Cotton. I mention this prerequisite now, for the purpose of enabling you to be sure of my co-operation in all future cases in which you may have occasion to write to me, provided you shall be explicit as to the above particulars.

I wrote an answer to yours from Washington, which it appears you had not recd. on the 15th. I presume it passed you on the road and has probably come to hand by this time. We are all well; Mrs. Tompkins unites with me in respectful regard to Mrs. Miller.

Silvanus Miller, Esquire.

Albany, January 19, 1812.

Sir: I am informd. that Mr. Walter Cotton, of New York will present himself as a candidate for an appointment in the Army of the United States. The testimonials with which I have been furnished of his intelligence, moral character & standing in society enable me to speak of him with confidence as a suitable and well qualified person to command a company and I therefore earnestly recommend him to your favourable notice for a Captains appointment.

I am, Sir, very respectfully, Your Obt. St.

Daniel D. Tompkins.

The Honbl. William Eustis.

DARBY NOON RECOMMENDED FOR THE COMMISSION OF MAJOR.

Albany, January 20, 1812.

Sir: Major Darby Noon of this place has mentioned to me his inclination to be the bearer of an American sword, provided

he can obtain a suitable station in the Army. He raised a Company of Greens in this City, which is not exceeded by any in the State, for equipments, discipline and patriotism. He has since been advanced to a majority in the Battalion of Riflemen to which his former company is attached. Mr. Noon has acquitted himself in the several military stations which he has held with distinguished intelligence and reputation. His moral & political character & his courage & patriotism cannot be questioned. I, therefore, with confidence assure you of his competency and fitness for a majority in the new Army, either in the line or the staff and warmly recommend him accordingly.

The Honbl. Wm. Eustis.

A FINANCIAL TRANSACTION.

Albany, January 20, 1812.

D'r Sir: I remitted to you by mail last fall a check on the Manhattan Bank to pay the call on my stock in the Newburgh Bank, and requested you to acknowledge the recp't of it & to enclose me the certificate of stock. Although I have no doubt it must have been received, yet I shall be pleased to hear of it by Mr. Ross when he comes up; and if you will take the further trouble to mentioning to the Editor of the Political Index, to send my paper to this place instead of New York, you will add to the many obligations already conferred on me.

John S. Hunn, Esqr.

DR. JOSEPHUS BRADNER STUART RECOMMENDED BY THE GOVERNOR
FOR THE HOSPITAL STAFF.

Albany, January 22, 1812.

Sir: It is understood that the members of the Hospital staff, provided for by the recent law which will be appointed immedi-

ately. Under that impression I beg leave warmly to recommend Dr. Josephus Bradner Stuart, of this place, as a gentleman well qualified for and worthy of the appointment of Hospital Surgeon in the staff of the new establishment.

The Honbl. Wm. Eustis.

AND DR. CANDE ALSO.

Albany, January 22, 1812.

Sir: Dr. William L. Cande, of this place, desires an appointment as surgeon in one of the Regiments to be raised under the authority of the United States. He has received an academical Education—has underwent [sic] a regular professional apprenticeship, and has for one or two years practiced with success & reputation and is attached to Republican Government and institutions. I, therefore, beg leave to recommend him to your notice for the above mentioned appointment.

The Honbl. Wm. Eustis.

AND MR. CLARK, FOR THE CAVALRY.

Albany, Jany. 22, 1812.

Sir: The name of Mr. William Clark of this place has, I understand been mentioned to you by Mr. Bacon of Massachusetts for an appointment in the Army. I am possessed of the most ample testimonials of Mr. Clark's probity, intelligence integrity and enterprise and am satisfied that he is well attached to the Republican Institutions of our Country. I, therefore, cordially unite in recommending him for the office of Captain in the Infantry or Cavalry of the United States.

The Honbl. Wm. Eustis.

CAPTAIN JACOB H. VAN SCHAIK FOR A CAPTAINCY.

Albany, Jany. 22, 1812.

Sir: Captain Jacob H. Van Schaick, of Easton, Washington County New York is desirous of obtaining an appointment of the same grade in the Regular Troops. He is about twenty five years of age, descended from a respectable Whig family, has discharged the duties of his Military office with reputation and is competent to the duties of the office which he solicits.

The Honbl. Wm. Eustis.

MR. JOHN KIRBY FOR A LIEUTENANCY OR ENSIGN.

Albany, January 23, 1812.

Sir: Mr. John Kirby, of this place, has been represented to me by a highly respectable and pious gentleman, in whom I have great confidence, to be about twenty two years old possessed of intelligence, integrity, moral habits & enterprise; and of soldierly appearance and qualifications. I, therefore, recommend Mr. Kirby as a suitable person in every respect for Lieutenant or Ensign in the old or new Army establishment.

The Honbl. William Eustis.

VALUABLE SUGGESTION TO ADJUTANT BOCKEE.

Albany, January 25, 1812.

Sir: Yours of yesterday is received. If the Commissions of the other Captains were of the same date with Mr. Lounsberry & they had previously been Lieutenants and he had not, there can be no doubt that they take rank of him of course without any draft.

To obviate the objections to your being adjutant, it has occurred to me since I wrote to you last, that you might be

appointed a Lieutenant in the line of the Regiment generally, and on a subsequent day be appointed Adjutant; and as this is the formation of a new Regiment I can see no impropriety in that course. I, therefore, advise you to get General Giles to return you for the line as well as for Adjutant.

Abm. Bockee, Esqr.

IN RELATION TO SEVERAL YOUNG GENTLEMEN WITH MILITARY
ASPIRATIONS.

Albany, January 25, 1812.

Sir: Myndert M. Dox of Geneva is recommended for a Captaincy in the Army. He is twenty two years of age, has a good education is of sound morals & politics & of respectable family and his appearance is Military. I, therefore, recommend him as well qualified for & worthy of the office of Captain.

Mr. William W. Trenor, is aged about twenty years, of the like morals, politics & intelligence with Mr. Dox and is recommended with confidence as worthy to be appointed a Lieutenant or Ensign in the Army.

The Honbl. William Eustis.

Albany, Jany. 25, 1812.

Sir: Mr. Cornelius V. V. Leonard, of this place, is desirous of obtaining the office of Paymaster in one of the Regiments recently organized or if that office cannot be separated from the line, he solicits an appointment of Lieutenant in the Line.

Mr. Leonard is about 21 years of age, is a member of an amiable and highly esteemed family of this City, and sustains a good character for ability & morals. I, therefore, earnestly recommend him for the appointment desired by him.

The Honbl. Wm. Eustis.

THE GOVERNOR NOTIFIES MR. EVANS THAT HIS RESIGNATION HAS
BEEN DESTROYED.

Albany, January 27, 1812.

D'r Sir: The hurry incident to the Assemblage of the Legislature prevents my making any further answer at present to yours of the 17th Instant, which I received last, than to say that I am highly gratified with your determination to continue to retain your Commission in the Cavalry. Your resignation has not yet been accepted & will be destroyed.

I agree with you fully that it would be inexpedient to divide Mathew's Regiment at present. Divisions of Regiments keep a kind of uncertainty for some time amongst the officers as to whom they ought to obey or to whom they are to make returns, & a consequent irresponsibility and confusion. As I have given Major Boughton one smack of promotion I cannot so soon disconsert the Regiment to give him another.

Septimus Evans, Esqr.

THE GOVERNOR'S ADDRESS TO THE LEGISLATURE—PREPARATIONS
FOR WAR.

Gentlemen of the Senate and of the Assembly,

The approaching crisis of our national concerns, and the arduous and diversified duties of revising the whole system of statute law, upon which the peace, the happiness, and the destinies of nearly one million of free citizens may depend, give to the session upon which you have just entered, more than ordinary solemnity and interest. It becomes us, therefore, to advance to its cares, with minds untainted by party acrimony, unswayed by selfish and interested motives, and with our aspirations of praise and thanksgiving to the Great Preserver

of nations, to mingle a humble and devout supplication for his guidance and approbation in the accomplishment of the task before us.

In my communication to the representatives of the people at their last meeting, I had the honor to revert to the then state of our foreign relations, and to note the accumulated injuries which had been inflicted upon us by the powers of Europe. I shall, therefore, forbear to repeat the disgusting detail, on the present occasion.

Nothing has occurred to alter our relative situation with France since the last session of the legislature. One item of complaint, however, has been expunged from the long catalogue of British wrongs, whilst fresh aggravations and insults have been substituted in its stead. The almost forgotten topic of an attack upon the frigate *Chesapeake*, has been lately revived by an unexpected tender of reparation, which has met the acceptance of our national rulers.

An affront calculated to excite equal sensibility, is to be found in the late assault of the *Little Belt* upon the frigate *President*, mitigated, to be sure, by the consoling reflection that it was bravely and nobly chastised upon the spot.

Although accumulated evidence of the actual suspension of the operation of the obnoxious decrees of France, has been submitted to the British cabinet, we are still doomed to witness a persistence in her orders in council, of which the edicts of Berlin and Milan were the pretended and ostensible basis, in defiance of a solemn stipulation to the contrary; and to be victims of an increased rigor in their execution, which has given the decisive and ultimate blow to our neutral commerce.

It would be painful to dwell upon every item of aggression and insult which swells the list of our grievances. The precise points of difference are stated, and luminously discussed in the documents which have recently been submitted to congress by the national executive. These are so universally and well understood, and the merited confidence in the wise and patriotic managers of national concerns, has been so thoroughly confirmed, as to have produced an union of feeling and sentiment in the nation, seldom before witnessed; and it furnishes a source of conscious pride and satisfaction in every American bosom, to be convinced, that whatever may be our local and domestic differences, we shall be an united and formidable people, upon all questions which involve our national existence and priveleges, or which affect the vital principles of independence.

Experience has at length taught us the feeble reliance which is to be reposed on appeals to the veracity, the magnanimity or the justice of monarchs, and has dissipated every remaining gleam of hope that our neutral rights will be suitably respected. The consequent unanimity and spirit which inspires the nation, and which have dictated the late measures of congress, shew a determination to enforce respect for our rights and sovereignty at every hazard.

It therefore behooves the state of New-York, to clothe herself in armour, and to stand prepared for the approaching contest. The security of her valuable and exposed maritime frontier on the south, and the protection of her inhabitants upon the extensive borders of the north and west, challenge our anxious solicitude and united services.

The documents now communicated, with others which will be laid before you by special message, in a few days, will furnish

full and accurate information of the number and equipment of the militia, of the extent and distribution of the military stores, and of the situation of our fortifications and military deposits.

With respect to the militia, the most flattering improvements in discipline and equipments, have been universally exhibited both by the officers and privates. The introduction of military schools into several of the counties, has contributed materially to excite ambition, and a spirit of emulation. We may repose unlimited confidence in the patriotism, gallantry and efficacy of the militia, whenever the honor and safety of the country shall require their services. The organization established by the act of 1809, has been found to be satisfactory and judicious in most respects. It is, however, essentially defective in one or two particulars. It prescribes no limitation or guide to the jurisdiction of military courts, nor is there in it any designation or definition of what shall constitute military offences, nor any rules or regulations for the practice and proceedings of those tribunals. The remedies proposed for these, and for other omissions and defects which practice has discovered, will be specified in a special report of the adjutant-general, which will be laid before you previously to the revision of the militia laws.

The revision of our code of laws will furnish you with opportunities of making many beneficial alterations. To devise the means for the gradual and ultimate extermination from amongst us, of slavery, that reproach of a free people, is a work worthy the representatives of a polished and enlightened nation.

Allow me here to observe, that the law which authorizes the transportation of slaves convicted of offences, is very generally considered impolitic and unjust. Impolitic, because it cherishes inducements in the master, to whom alone those unfortunate

creatures can look for friendship and protection, to aggravate, to tempt or to entrap the slave into an error; to operate upon his ignorance or his fears, to confess a charge, or to withhold from him the means of employing counsel for defence, or of establishing a reputation, which is frequently the only shield against a criminal allegation. This inducement will be peculiarly strong, where the slave is of that description, the sale of which is prohibited: for a conviction will enable the master to evade that restriction, and to make a lucrative disposition of what might otherwise be a burthen to him. It is unjust because transportation is added to the full sentence which may be pronounced upon others. To inflict less punishment for the crimes of those who have always breathed the air of freedom, who have been benefited by polished society, and by literary, moral and religious instruction and example, than to the passions and frailties of the poor, untutored, unrefined and unfortunate victims of slavery, is a palpable inversion of a precept of our benevolent redeemer. The servant "that knew not, and did commit things worthy of stripes, shall be beaten with few stripes; for unto whomsoever much is given, of him shall be much required."

It would be an employment equally grateful and honorable, to endeavour to ameliorate the condition and cultivate the affections of the natives, who dwell within our territory. These have generally demeaned themselves in a friendly and inoffensive manner. Although they are amenable to our laws they are yet disqualified from pursuing the ordinary means of redress, for injuries committed upon their persons or their property. It is not to be disguised that worthless and unprincipled white persons, availing themselves of the ignorance of the Indians, and

of their horror at becoming the objects of punishment by laws which they cannot interpret or comprehend, wantonly and boldly violate their individual possessions and national domain. Such persons are generally of transitory residence, and are amongst the most depraved members of community, who, besides the violation of the individual and national rights of the Indians, corrupt and debase their propensities and habits. These intruders bid defiance to the ordinary remedy by ejectment, the issue of which they can protract for two or three years, and if they cannot, in the mean time, avail themselves of the contingency of the purchase, by the state, or of special legislative interposition in their behalf, they escape before final process overtakes them, and leave the estate of the Indians encumbered with the expense of the proceedings. Of repeated and earnest appeals for the redress of these grievances, a wise and prudent legislature cannot be regardless. As no right to the possession or title of Indian lands can be acquired from them by an individual, and as, therefore, no legal or valid defence can possibly be made in a suit at law, it is submitted whether a power to expel in a summary way, intruders upon Indian territory, or upon public lands, where no pre-emptive right is reserved, ought not to be vested, somewhere, to be exercised under suitable restrictions and whether such intruders ought not to be deemed public offenders, and be dealt with accordingly.

You will, in a few days, receive the report of the commissioners who were appointed to investigate the titles of the Onondaga salt lots. Its importance will doubtless direct your serious attention to the general regulation and permanent usefulness of that invaluable establishment. Every discernable avenue ought to be closed, by which associations or individuals may monopo-

lize the lots, or the salt manufactured at the public springs. If that be permitted, the object contemplated by the government may be defeated, and the industrious and enterprising citizens of that flourishing portion of the state, be essentially and permanently injured.

Our treasury, for upwards of twenty years, has been constantly drained by the discharge of pretended or real demands against confiscated lands. The best means of resisting or limiting those demands, has frequently engrossed the earnest attention of the legislature. The systems which it has heretofore devised, however, have been more or less parried by speculative management or legal ingenuity. Possessions of nearly twenty years, warranted and confirmed by public authority are constantly disturbed, and our treasury still feels the pressure of demands, which the purchasers of those claims are constantly heaping upon it. It is essential to our financial resources, that effectual barriers be interposed against those claims. It would, perhaps, contribute materially to lessen their amount in future, we are to make void, and punish as fraudulent and criminal speculators upon the state, all direct or indirect purchasers of them.

Much of the time of the legislature has heretofore been engrossed with the concerns of incorporated institutions. It is a question worthy of our serious meditation, whether corporations, other than those of a literary, charitable or religious kind, have not already been multiplied to a dangerous and alarming extent, particularly those of them which are endowed with the power of conducting monied operations.

It has already been announced, that petitions for new banks, to the amount of eighteen and a half millions of capital, will be

presented during the present session. It will appear, by a report on your files of February last, and by an inspection of the laws passed since that, that our existing bank capital, including the stock to be subscribed by the state, amounts to nearly thirteen millions of dollars. The debts which may now be legally contracted upon that capital, are thirty nine millions; and if eighteen millions and an half of additional capital should be granted, the banks of this state alone, will then be enabled to contract debts, or in other words to issue their paper to the enormous sum of ninety-four millions of dollars, a sum at least sixteen times greater than the whole specie capital of the state. A failure to discharge such a debt, will produce universal bankruptcy and ruin.

The fearful prospect presented to my imagination by the preceding facts, and by the infatuation which has hitherto occasionally prevailed, with respect to banks, demand of me, as a sacred, official duty, to submit to your consideration a few remarks upon that subject.

The intrigue and hollow pretences, which are frequently practised to draw the legislature into the views of applicants, by exciting expectations that particular local benefits will flow from the grant of the charter solicited; or that particular classes of citizens, or politicians, will be peculiarly gratified by it, ought not to impose upon us at this late day; for we know, that expectations, excited by such representations, have too often vanished in a subsequent selfish, speculating and demoralizing distribution of the stock. Neither ought we to be unmindful, that not unfrequently, the prominent men who seek the incorporation of new banks, are the very same who have deeply participated in the original stock of most of the previously established banks.

Having disposed of that stock at a lucrative advance, and their avidity being sharpened by repeated gratification, they become more importunate and vehement in every fresh attempt to obtain an opportunity of renewing their speculations. It is also worthy of preliminary notice, that the apparent unanimity in favor of a measure which often surrounds the capital when the legislature are beset with bank applications, is no real indication of the sentiments of the community at large.

One prominent objection which meets us at the threshold of an examination of this subject is, that the vaults of banks are the reservoirs into which the specie is collected, and where larger quantities of it are at all times accessible by those who may wish to send it out of the country, than would be the case where the specie left diffused, instead of the paper.

Bank stock is generally owned by the speculating, the wealthy, and the aspiring part of society. An amount of their personal property, equal to that vested in stock, is withdrawn from other applications and appropriations of it, which would probably be more beneficial to the agricultural, manufacturing and laboring interests. Hence arises the difficulty experienced by enterprising farmers, manufacturers and mechanics, to raise money at lawful interest upon the best security; and hence it follows, that the necessity of temporary pecuniary relief, frequently drives them into the embraces of unprincipled, avaricious usurers, who fertilize upon the wants and distresses of the needy and unfortunate.

The influence of the wealth amassed and concentrated in bank stock, wielded under the direction of a few persons not accountable or responsible to the community for their conduct, nor restrained by any official oath, may be devoted to a sway over

individual passions, sentiments and exertions, alarming in a representative government. A diligent observer will have already perceived one palpable operation of this influence on public sentiment, in the fashionable, erroneous opinion which prevails, that there is greater sanctity in corporate, than in individual property and rights, and that the one is less amenable than the other to governmental control, and less subservient to any paramount public good.

The multiplication of banks encreases the facility of counterfeiters to make depredations on society, and their operations are almost exclusively prejudicial to the less wealthy part of the community, whose business does not familiarize them with the great variety of paper money which is put afloat. The last mentioned part of society are generally the most moral, upright and useful members thereof, and are the main dependence of government in times of danger and of war. Of them, therefore, the legislature ought to be the peculiar guardians. A recent detection of immense quantities of false bills creates serious apprehension that the amount of forged paper already emitted, bears a great proportion to the quantity of genuine paper in circulation; and if so, how will the country be deluged with the former, if the facilities for putting it off be multiplied.

One of the baleful consequences of banks, is the facility with which credit may be obtained by certain descriptions of persons in and near cities and villages through the medium of a responsible endorser. The fictitious capital thus acquired by a man, inspires confidence in all descriptions of dealers and mechanics, who consequently trust him. Whenever adversity overtakes him, the property on hand is immediately transferred to the endorser to secure the bank demand. This course is dictated by

a sense of gratitude to the endorser, and by a desire to propitiate the good will and future patronage of the bank: and it thus happens, that whilst the bank obtains full payment, more humble creditors, who have trusted the insolvent, in consequence of the imposing appearances, with which that very bank invested him, lose the utmost farthing of their dues. Hence, and not from the defect of the insolvent law, as is generally imagined, proceeds the universal complaint, that the estates of insolvents yield no dividends to ordinary creditors.

The wound which the morals and reputation of neighboring states have experienced from a too great indulgence of the bank mania, and the present depreciated credit of bank currency, there and in England, furnishes a lesson of vast importance to patriotic and upright statesmen. The paper of the late bank of the United States had an unbounded credit and circulation. At its first creation, there were few rival institutions in the great mercantile cities, where its branches were established, and it therefore enjoyed the deposits and business of the first houses and characters in the union. It was also patronised by the exclusive deposits of the general government, to the amount of near twenty millions annually, which added greatly to its ability for accommodation; and if that bank with such unprecedented advantages, can neither make a dividend for the present year, nor redeem the original stock at par after payment of its debts, which is evident from the price of its stock, what would be the fate of many of our present banks, were their affairs brought to a close? And they will assuredly be brought to a close whenever a material shock shall be given to the credit and circulation of their paper. The then disastrous consequences are incalculable, consequences which will not be confined to cities and vil-

lages, but will pervade in a more eminent degree, the agricultural parts of the state.

To facilitate commercial operations, is the ostensible pretext for soliciting bank charters, and is the only justification for granting them. But at this moment, commerce is almost annihilated, and therefore there exists now no necessity ostensible or real for the multiplication of banks.

There is one other consideration of emphatical influence at the present period. It is well known that stock is generally considered an unfit subject of taxation, and in fact is not included in the taxable fund, nor does it contribute to discharge the public burdens, nor is it liable to distress, or to seizure or sale upon execution. To increase, therefore, the amount of that untangible kind of property at this moment of apprehended war, would be justly considered a partial exemption from contribution towards the public burdens of so many millions of the personal property of the rich. With what indignation would the yeomanry, the great body of our constituents, receive the intelligence of measures directly calculated to increase their burdens by a partial indulgence to the property of the rich?

Finally, we must be feelingly alive to everything which has a tendency to impair confidence in the public functionaries. If the interests and the sentiments of the great mass of our constituents are opposed to the further incorporation of banking associations: if their institutions will greatly facilitate forgers in passing false bills: if the suspension of commerce takes away the only plausible and rational pretext for countenancing them: if the wisdom taught us by the experience of neighboring states, of foreign countries, and by the supposed situation of the late United States bank, confirm and proclaim the danger to be

anticipated from assenting to the increase of the number and capital of banks; if they contribute to drain the country of specie and discourage agriculture and manufactures, by withdrawing from their uses and appropriations more beneficial to them, the money of the affluent: if they have an influence which enables them to obtain the whole property of insolvent debtors, to the injury of other creditors: if their tendency be to the subversion of our government, by vesting in the hands of the wealthy and aristocratic class, powerful engines to corrupt and subdue republican notions: if the augmentation of bank capital, causes an equivalent curtailment of the taxable fund, and will thereby relieve the wealthy stockholders from their equal share of contribution to the public service, and proportionably enhance the tax on the hard earnings of the farmer, manufacturer, mechanic and laborer: if the wisdom and example of the national government be worthy of respect or imitation: and if we still persevere in multiplying banks, will there not be danger of infusing into the public mind a suspicion, either that we yield too pliantly to the management and pressure of external combinations, or that the unhallowed shrine of cupidity has its adorers within the very sanctuary of legislation? Such a suspicion will be the prelude to the downfall of republican government, for it is erected and supported upon the affections of the people at large, and upon their faith in the inviolable firmness, and probity of their public agents, and when once the foundation is removed the superstructure must fall of course. Let us, therefore, conscientiously endeavor, so to dispose of the various bank applications with which we are to be assailed, as to promote the general welfare, and at the same time, to retain and confirm public confidence, not only in the wisdom, but also in the

unbending independence and unsullied integrity of the legislature.

A communication from the Chancellor of this state, relative to certain existing evils in the administration of justice, in the high and important tribunal over which he presides, is now presented. Your discernment and watchful care over the rights of your constituents, and the dignified and respectable source from whence the representation of the existence of those evils is derived, will doubtless engage your best efforts to devise and apply the appropriate remedy.

The report of the commissioners of the school fund, shortly to be laid before you, will attract your attention to the diffusion of useful knowledge, and the consequent promotion of virtue and happiness.

The flourishing state of domestic manufactures, and the share which the encouragement and bounty of the legislature has had in contributing to their activity and success, and the consequent independence of the country, prompt to a continuance of every countenance and support compatible with our resources.

On a former occasion, I had the honor of communicating to the legislature my ideas of corporeal and capital punishments. I shall not therefore dwell upon that theme now, longer than to repeat that I have always entertained serious doubts of the right of society to take away life in any case. That such extreme and vindictive punishment is by no means indispensable for the preservation of the social compact or for the peace and security of society; and that it is offensive and repugnant to those sympathetic emotions, those beneficent virtues, and that refinement of policy and of reason which adorn civilized and free communities. If by inviting your reflections once more to

this interesting topic, I shall be so fortunate as to subserve the cause of humanity, by effacing from our revised code that vestige of barbarism, it will be to me a source of high and durable satisfaction.

Gentlemen, for the unusual length of this address, my only apology is to be found in the great variety and importance of the matters which will necessarily engross your attention.

With an acknowledgment of my high sense of your patient indulgence, I offer a fervent prayer to Him, who directs the passions and talents of man, and controls the destinies of nations, to inspire us with unanimity, patriotism and wisdom, in the performance of the high and responsible duties of our respective stations, and to grant that our services may redound to the lasting happiness and welfare of the state.

Daniel D. Tompkins.

Albany, January 28, 1812.

MORE MILITARY CANDIDATES.

Albany, January 31, 1812.

Sir: The following Gentlemen of this State I take the liberty of recommending for appointments in the Army. Their Intelligence, education, moral & political character and standing in society are perfectly good, and they are in every respect worthy of & qualified for the offices mentioned opposite their names:

John Thompson, of Broadalbin in Montgomery County, for Major.

Daniel McIntyre, of Palatine in said county, for Lieut. or Ensign.

Nathan Blackman, of Flatbush in Kings County, for Lieutenant.

Elijah I. Graves, of Stephentown in Rensselaer County, for Surgeon.

Robert D. McDonald, of the City of Albany, for Surgeons mate.

The Honbl. Wm. Eustis.

Albany, February 3, 1812.

Sir: Mr. Charles Stewart of Shawangunk, Ulster County & State of New York, wishes to obtain a Captain's Commission in the Army: The enclosed recommendation from my venerable friend Dr. Graham will acquaint you with his character and merits. It is only necessary for me to add that James G. Graham is an eminent & venerable Physician of the above mentioned place, who was a revolutionary character, and who has been elected to the Assembly & Senate of this State for a great number of years, & was a member of the Council of Appointment in 1809 after which he retired from public life on account of his age and impaired health. The Vice President and others at Washington from this State will readily confirm my assurance in Dr. Graham's Reputation of Mr. Stewart's character & qualifications.

The Honbl. William Eustis.

NECESSITY OF PREPARATIONS FOR WAR.

GOVERNOR TOMPKINS BRINGS SEVERAL VALUABLE MILITARY SUGGESTIONS TO ASSEMBLYMAN VAN VECHTEN.

Albany, 4 February, 1812.

Sir: As there is a degree of uncertainty in my mind whether the objects mentioned below come strictly within the province of the frontier Committee or of the Military Committee, I take the liberty of laying before each of them the following suggestions which they will please to dispose of as their wisdom may direct:

1. They are informed that Arsenals have been built at the following places, New York, Albany, Elizabeth Town Essex County, Plattsburgh, Rome, Watertown, Onondaga, Canandaigua and one preparing at Batavia. We have an excellent Powder Magazine on York Island, a beautiful & substantial Bomb proof Magazine near the Fortifications at the Narrows, and a new and capacious one near this City. The quantity of Arms, Ammunition & Military Stores, deposited in the before mentioned Arsenals and Magazines, is designated in the Report of the Commissary of Military Stores, submitted at the opening of the Session, to which the Committee are respectfully referred. As the Law authorizing the Erection of deposits and the distribution of arms &c. towards the frontiers limited the number of the latter to be sent to each place & as our present supply would justify the depositing of a great number in those Arsenals now without impairing the security of other parts of the State, it is respectfully submitted whether that limitation ought not now to be taken off and a discretion be given to forward and deposit in the Frontier Arsenals, additional quantities of arms, ammunition, and other Military Stores, as occasion may require.

2. The keepers of those Arsenals are not now recognized as public officers. Their compensation is left discretionary with the Governor & it gives him much trouble to audit their accounts and equalize their compensation. They are not required to give Security for their fidelity, which ought to [be] the case. There ought also to be a provision declaring the circumstances under which certain officers could obtain the Arms &c. for the Militia to repel an Invasion, or upon any other emergency without the delay of sending to Head Quarters for that purpose, and without the risque to which the keeper would now be subjected by parting with them.

3. The duties of the Commissary, are extensive and arduous and are to be performed at such different and remote places that it will be indispensable to authorize the appointment of Commissary for the Western department, in addition to the principal Commissary of the State residing to the Southward. The district Instructors which will be recommended for teaching the Militia officers, may very properly have this duty attached to their offices which will lessen the expence. They ought to examine every Arsenal within their respective districts twice in each year, with all the property contained in it & to report to the principal Commissary who should semi-annually report the [?] to the Commander in chief. As these Instructors would be itinerant, and be for a week at a time with all the officers of each Brigade, they might be clothed with the offices of District Inspectors, or assistants to the Adjutant General, to distribute blank returns, and to receive and convey to the Adjutant General of the State, the Brigade Inspection returns formed into a district Inspection Return. All the above duties would require Intelligence, Industry & Ability and, there-

fore, a compensation ought to be allowed sufficient to induce competent and respectable men to undertake the Trust. A sum equal to what would be required for that purpose might be saved by forbearing to issue the usual quantity of Powder and Ball to the Artillery Companies.

4. Great inconvenience has been experienced in the construction of Gun Carriages, from the necessity of using timber not perfectly seasoned. The constant accidents & the Repairs required by reason thereof evinces the propriety of making an annual appropriation to be expended in the purchase as emergencies & the State of the market may dictate, of sufficient quantities of that article to be seasoned in our Arsenals, preparatory to a demand for the use of it. An annual appropriation for this object of 2,500 Dollars for three years to come is, therefore, respectfully submitted.

5. The deficiency of good muskets and equipments of the Militia generally, and the variety of the Calibers of their muskets furnish ample evidence that to be made effective, the Militia must be furnished when they arrive at the place of rendezvous with public Arms whose quality &c uniformly can be relied upon. Although we are already respectably furnished with small arms & equipments, it would not be amiss to proceed in procuring about 1000 annually for 5 years to come. And could the erection of an Armoury & Cannon Foundry on some part of the Hudson above the Highlands be induced by an advance by the State, on Loan in the first instance, of a sufficient sum to erect and set on foot an extensive establishment of that kind, the loan to be repaid in arms & cannon manufactured in our own State, our advantages in future would be greatly increased. To cover the price of 1000 Muskets, with all the

equipments and expences of proof transportation &c., an annual appropriation of \$17,500 will be requisite. Should any considerable portion of the Militia be required to go into service immediately under the authority and in the defence of this State, the want of Tents and Camp Equipage & of knapsacks would materially retard, if not defeat, their operations. Some of those articles are perishable or liable to decay in a short time, in consequence of which they have not heretofore been provided. An authority ought to be vested some where to be exercised or not according to circumstances for procuring a sufficient Camp Equipment for 1000 Men in the Eastern district, 1000 in the western & 2000 at New York. From my deficiency of practical knowledge of all the articles necessary for the comfortable encampment of 4000 Men, and from my want of acquaintance with the present price of the articles requisite to supply such a Number, it follows that the amount of an appropriation, therefore, must be with me at present matter of conjecture. But I venture to suggest \$20,000 as adequate for that object.

6. To prepare additional quantities of fixed ammunition to procure further supplies of powder for that and other purposes, to provide flannel for Cartridges & fuses for shells & an appropriation of \$7,500 will be requisite.

7. The works at the Narrows have been completed for One hundred & ten Guns. But there is no provision for manning the works, or for guarding them against injury by mischievous persons of the neighbourhood or by the most inconsiderable number of an Enemy or intended enemy. Power ought to be given to apply to the United States to Garrison the works, and in case of their refusal, to place a detachment of Militia, there

consisting of one Captain, one First Lieutenant, one second Lieutenant and Seventy two non Commissioned officers and privates, to be employed and improved in Garrison discipline, and in occasional fatigue. Possession of the Fortifications & Ground appurtenant at the Narrows, ought to be declared to be in the Governor or some other Public Officer, to simplify the Remedy for the numberless tresspasses which are committed upon it. The people deem the wharf and other public property there to be public in the same sense as highways are & act accordingly. That establishment has become a place of great resort, and, therefore the above or some other measures should be adopted. Should the encampment of two Thousand Men for one month as suggested below, be acceded to by the Committee it will supersede the necessity of providing for the detachment or Guard above mentioned.

8. All the duties of a soldier ought if possible to be learned by every Member of the Militia before we may have occasion for his services. This would be impossible without an acquaintance not only with discipline, but also with camp Duty, habits and modes of living. I deem it, therefore, essential to our safety, that a portion of the Militia at least should be encamped for one month and, therefore, lay before the Committee a proposition to the following effect: That one thousand men be encamped in the Eastern district, 1000 in the Western & 2000 at or near New York each for one month. The two former to be disciplined industriously and faithfully in the duties of field Artillery, Infantry, Riflemen & Cavalry & the latter in the management of heavy ordnance, both in Garrison and on Field Carriages & Gun Boats. The Cantonments to consist of volunteers resident within the State & under 35 years of age, to be under

the rules and articles of War, modified to their Circumstances, to receive rations, 20/ per Month for pay, and a Musket and Cartridge Box at the termination of the Month, upon a Certificate of good Behaviour and faithful service for that time. The officers to receive nothing but Rations. These volunteers, thus disciplined and equipped with arms, should be the advanced Corps upon an emergency and should stipulate accordingly. In this way a respectable force would be ready near each vulnerable point to take the Field upon alarm, with the promptitude and immediate usefulness of Regular troops & would give an opportunity for the residue of Militia to become a little inured to the discipline and duties of actual service, before they need meet the enemy. But even should the services of the advanced Corps be dispensed with in consequence of a fortunate turn of our Affairs, the beneficial effect of diffusing military knowledge & emulation throughout the whole Militia by sending home amongst them 4000 well disciplined, well equipped and Patriotic Soldiers, would alone compensate for the expence. Should the Plan, the outlines of which are here suggested, meet the approbation of the Committee, I will then submit to them the proposed organization, and an estimate of the expence of such cantonments, and also the system of Regulation or the Rules and articles of War which have occurred to me for their Government.

To shew the Committee the indispensable necessity of having a considerable portion of the Militia in the Southern district instructed in the duty of Engineers & Artillerists, it is only necessary to observe, that the fortifications erected by the United States, mount about 300 Guns, some of which are 42, some 32, & some 24 Pounders with a number of Columbiads.—



McGOWAN'S PASS, HARLEM HEIGHTS.

Mortars belonging to the United States and this State are also ready to be used in case of maritime attack. There are also about 50 Guns or Gun Boats in the Harbour, and about 50 twenty four, Eighteen & twelve Pounders, on travelling Carriages. No reasonable Calculation can be made by which all the above mentioned Ordnance can be usefully employed at one time in repelling an attack upon New York with less than 5000 men, independent of the number which may be necessary to take the Field to prevent an Enemy from landing its forces below the fortifications. Now, it cannot be expected that Militia undisciplined and unacquainted with the use and Management of ordnance will be able to man the fortifications to one half their effect without being previously trained & instructed in the duty of Artillerists, and in the mode of occupying and using to the greatest advantage the works which are now erected. It is not to be expected that the United States will or can supply New York with more than 1500 Artillerists at any time during the present year. It will follow of course that the works for defending that place against a maritime attack cannot be applied with half their efficacy for the want of competent Engineers and Artillerists to occupy and fight them. Some plan like the one above proposed seems to me to be indispensable for the Security of the City of New York. I am aware of the responsibility of suggesting the expenditure of the sums which will be necessary to carry all the preceding objects and Plans into execution, but a sense of duty, and a conviction of the danger and perhaps irreparable injury to which we may be speedily subjected for the want of efficient preparations, has compelled me to be thus explicit in representing my views of the measures essential to be pursued at this

threatning period. I hope the Committee will nevertheless remain satisfied that I entertain a suitable deference to their opinion and shall acquiesce and cordially unite in carrying into operation any other measures or plans which their superior wisdom and Experience may suggest.

9. It has often happened, heretofore, and the case now exists, that where the amount appropriated for a certain Branch of Military preparations, is limited, and the expence of the intended preparations are contingent in amount and cannot be calculated with certainty beforehand, that the expence turns out to exceed the appropriation whilst other objects are accomplished without using but an inconsiderable portion of the appropriation. The necessity of discharging the demands of Mechanics and Manufactorys, without compelling them to wait untill a future session of the Legislature, renders it almost indispensable to apply a part of the Balance remaining of one appropriation to make up the deficiency of another. Thus the complicated objects contained in the act authorizing the purchase of an additional quantity of ordnance, small arms, ammunition, &c. passed in 1808, and the Laws supplementary thereto, have exhausted the specific sum appropriated by that Act, and left a balance the payment of which is unprovided for by law; whilst large Balances of the sums appropriated for the defence of this State in fortifications and for other objects of defence, remain unexpended. I, therefore, respectfully request the Committee to procure the passage of a clause authorizing the Balance of expenditures under the first mentioned act to be defrayed and allowed by the Comptroller out of the unexpended Balances of any other appropriations for Military purposes and objects of defence. It will give me pleasure to exhibit to the

Committee at any time they may appoint, my accounts and vouchers under the above mentioned Acts, with Specimens of the Cannon, Carriages, Muskets, Rifles, setts of accoutrements and other articles supplied under them, and to shew the Magazine in this Neighbourhood, that they may judge of the fidelity and prudence of the expenditures of part of the sums formerly granted, before they recommend any further or new appropriations or Arrangements.

Abraham Van Vechten, Esqr.*

THE GOVERNOR RECOMMENDS A NUMBER OF APPLICATIONS FOR THE
ARMY AND NAVY.

Albany, 5 February, 1812.

Sir: The only knowledge I have of Mr. James Baker mentioned within is derived from Col. Blackwell and Col. Mapes of New York whose letters are enclosed. The last mentioned Gentlemen are of the first standing and respectability in New York, as the members of Congress of that City will inform you, and I have, therefore no doubt that Mr. Baker is a very suitable person for the office for which they recommend him.

The Honbl. William Eustis [Secretary of War].

*"It has been written of Abraham Van Vechten, that 'no name is more honored in the State than his—honored not only as a learned, eloquent, and eminently successful lawyer, but as a legislator whose wisdom and profundity are seen in the enactment of many of the laws that have given protection and greatness to the State of New York.' He was born in Catskill, December 5, 1762, graduated at what is now Columbia College, and studied law with John Lansing. After a short period of practice in Johnstown he settled in Albany, where he soon ranked high among older and more experienced lawyers. His large practice soon carried him before the higher courts, where he greatly distinguished himself and opened the way for his preferment in public office. He was repeatedly elected to the Legislature, and in 1813 was appointed attorney-general of the State, and during the administration of John Jay he was tendered the office of judge of the Supreme Court of the State; but he preferred to remain directly in the practice of his profession and declined the high honor. He was recorder of Albany, 1797-1808; regent, 1797-1823; State senator, 1798-1805; member of assembly, 1805-15; attorney-general, 1810 and 1813, and a member of the Constitutional Convention of 1821. For over half a century his brilliant mind was constantly shedding its light over the jurisprudence of the State and nation. The bar long delighted to accord to him its highest honors."—Landmarks of Albany—Edited by General Amasa J. Parker.

Albany, Feby. 5, 1812.

Sir: Your letter with its enclosures has been recd. By the mail which conveys this to you, I have forwarded a letter in your behalf and transmitted the recommendations of Cols. Blackwell & Mapes.

It has occurred to me that should you obtain a letter from Jacob Barker, in whose Counting House you were brought up, to Dr. Mitchel [Mitchill] in support of your morality & integrity whilst in his employ it will give essential aid to your other credentials.

Mr. James Baker, No. 175 Broad Way, N. Y.

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Albany, Feby. 5, 1812.

Sir: Mr. Henry Remsen Haskin, aged Seventeen years, Son of Benjamin Haskin, of New York, solicits a Midshipmans War-rant. The recommendation which I have of this young gentleman from the President of the Manhattan Bank, & my slight personal knowledge of him induce me to present him to your notice as a young Gentleman who has rec'd the best education, in [is] virtuous & moral and is well qualified for and worthy of that office.

The Honbl. Paul Hamilton [Secretary of the Navy.]

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Albany, Feby. 5, 1812.

Sir: Apollos Moore, Esquire, of Rensselaerville in this County has mentioned to me his inclination to enter the service of his Country in a Military capacity. He served a part of the American war in Mathew Jackson's Massachusetts Regiment and is now a Lieutenant Colonel of Cavalry in this State & a

Judge of the Court of Common Pleas. He is 45 years old but is active and sprightly. The character of Col. Moore is irreproachable and his qualifications, experience & political character likewise in his favor. Judge Cook one of our members of Congress is I believe acquainted with him and can give a more particular description of him.

I recommend Col. Moore with much cordiality for appointment to a Field Officer in the Cavalry of the United States for which I deem him well qualified in every respect.

The Honbl. William Eustis.

Albany, Feby. 5, 1812.

Sir: Mr. Benj'n Ford, of this place is a young Gentleman of intelligence and good character. He wishes the appointment of Captain in the Army.

I am unacquainted with his talents or qualifications as a Military character, but have no doubt from his intelligence & private character that he would make a good officer and therefore recommend him for an appointment.

The Honbl. William Eustis.

Albany, Feby. 5, 1812.

Sir: The enclosed recommendation is signed by Col. Backus of the Army whom you know, and by others who are the first Republican characters in Greene County. Mr. Wilcox has also been introduced to me and I can, therefore, say from my own knowledge that his appearance is highly in his favour. I, therefore, take the liberty of uniting in his recommendation for an appointment as Lieutenant or Ensign.

The Honbl. Wm. Eustis.

MASTER GRAY APPOINTED A MIDSHIPMAN.

Albany, Feby. 5, 1812.

Sir: Master Gray received a Midshipman's Warrant the day after my letter in his behalf was put in the mail. Permit me to say that I feel deeply sensible of the obligation you have conferred upon me by your kindness towards him.

The Honbl. Paul Hamilton.*

THE GOVERNOR GIVES CAPTAIN MOUNT AN ORDER FOR A NINE POUNDER AND INFORMATION CONCERNING A GUN HOUSE.

Albany, Feby. 9, 1812.

Sir: Yours of the 26th ulto. came by the mail of last evening. Enclosed is an order for a Nine pounder as therein desired.

The law 1808 authorizing the purchase of an additional quantity of Ordnance &c. provides for the erection of Gun Houses & appropriates Sixty Dollars for each. (Public laws of 1808 page 209.) You will observe that the place is to be previously directed by the Governor. It is also a preliminary that sufficient ground at the place should be conveyed to the State of New York to be held by them so long as it may be used for a Gun House & further, that a bond with security for the faithful application of the money should be executed before the appropriation money can be received. As soon as these prerequisites are complied with, I will give you a warrant on the Comptroller for the Sixty Dollars. In fixing the site of the Gun House, the principal circumstance is the convenience of the Company & it ought, therefore, to be nearly central or near their usual place of Company meeting.

Captn. John S. Mount.

*Paul Hamilton, Secretary of the Navy 1809-1813.

THE GOVERNOR RECOMMENDS MILITARY CANDIDATES TO CONGRESS-
MAN COOK.

Albany, Feby. 11, 1812.

Sir: Dr. John A. Hart, of Coxackie, Captain John Marshall, of New Baltimore, Daniel Shays, Junr. of Rensselaerville and Henry Tallmadge, of Greene County are desirous of obtaining appointments in the Army—The first—Surgeon—the second & third Captains and Mr. Tallmadge surgeons mate. All the above gentlemen are recommended to me by Dr. Adams, Dr. Ely & others of Greene County in addition to the written testimonial. As you are acquainted with all the Gentlemen recommending them I take the liberty of enclosing the within papers to you with a request that you will lay them before the Secretary of War. I am satisfied with their credentials & hope you will furnish to the Secretary such additional representations as you may feel yourself justified in making.

The Honbl. Thomas B. Cook.

THE GOVERNOR AND THE ACCOUNTS OF THE BROTHERTOWN INDIANS.

Albany, Feby. 11, 1812.

Gentlemen: By your account settled by the Comptroller with the Brothertown Indians dated 7th Inst. it appears there is due to the former superintendent, the sum of 541 $\frac{22}{100}$ Dollars which it will be proper for you to pay them. For the salaries to School Master, Town Clerk &c. you will pay such sums as are reasonable & just. For the support of the poor, of orphan children, and other town purposes, it may be proper for you to appropriate 450 Dollars.

It appears by a Representation made to me by the Inhabitants of the Town of Brothertown, that they are desirous of sending

two or three Indians to a distant part of the western Country, in order to confer with some of the Delaware Indians, on the subject of a Tract of Land, which they have offered to convey to the Brothertown Indians. I therefore approve of your appropriating at your discretion about 350 Dollars after paying the foregoing sums the amount that may then remain in your hands may be distributed by you as premiums to particular Indians for Industry or for such other purposes as in your opinion may most likely promote the general welfare of the Indians.

As to the Stockbridge Indians, it appears by the acc't settled with the Comptroller dated 7th inst. that there is due to the former superintendents 18 $\frac{50}{100}$ Dolls., which you will pay them, after which there will be in your hands 193 $\frac{26}{100}$ Dol's. You will expend this in paying such debts, as those Indians are now due to persons who have heretofore afforded them supplies, or in any other way as in your opinion may be of the best advantage to the said Indians.

To the superintendents of the Brothertown Indians.

THE GOVERNOR CALLS UPON GENERAL PAUL TODD FOR AN
EXPLANATION.

Albany, Feby. 11, 1812.

Sir: A Communication has been made to the Council of Appointment remonstrating against your division order, which assigned Dr. Williams, Inspector of Swit's Brigade, as unauthorized by the General Orders organizing the present Brigades of your Division. I have taken the liberty to write to you preparatory to any proceedings by the Council, to advise you of the

Complaint & to request that you will come forward immediately to explain to me your proceedings upon that subject.

Genl. Paul Todd, Berne, Albany County.

ADDITIONAL APPLICATIONS FOR MILITARY GLORY.

Albany, 11 Feby., 1812.

Sir: The Gentlemen who sign the within papers are respectable. Mr. Titus is one of the first characters in Kings County & Mr. Fleet is Lieut. Col. of the third Regiment of Artillery in the City of New York. I am unacquainted with Mr. Youngs whom they recommend, otherwise than having had one interview with him; and as he informed me that he intended to present himself personally to you and, therefore, it will not be necessary for me to speak of his age or appearance.

The Honbl. Wm. Eustis.

Albany, February 11, 1812.

Sir: The political character of Mr. James Rees, of Geneva is that of an American Federalist. His Son mentioned in the within letter is a Lieutenant of the Artillery Company at that place. I have been introduced to him & have seen him officiate in his Military capacity, and have no hesitation in saying that he appears to be a modest, amiable and intelligent young man & qualified for a Military station.

Mr. Swartwout the subscriber to the other enclosure is also a warm Federalist, but has, heretofore, volunteered his services in the United States detachment, with a large Company of Grenadiers then under his command. He is now Brigade Major & Inspector of the Militia in Onondaga County, and has in every Military capacity which he has held, conducted so entirely to

my satisfaction that I cannot withhold my testimony of his intelligence & of his fitness in point of talents for the Command of a company in the Army.

The Honbl. Wm. Eustis.

THE GOVERNOR TO MR. SECRETARY GALLATIN IN REGARD TO
FUGITIVES FROM JUSTICE.

Albany, Feby. 11, 1812.

Sir: I have the honor to send you the copy of a letter from Mr. Saily* relative to an occurrence with which he has doubtless made you acquainted.

The act of Congress concerning Fugitives from justice does not extend to the demand of a person from the jurisdiction of an other Government. If the Administration of the Government of Canada were inclined to surrender up Fugitives from the justice of this State, it would not be in our power to return the Courtesey without legal provision by the Government of the United States. The numerous crimes which have been committed near our Northern & Western Frontiers by persons who immediately seek refuge in Canada, renders some provision to that effect highly important and necessary and I, therefore, beg leave to ask your attention to it.

I take this opportunity of mentioning, that I transmitted some time since the receipt of Mr. Asa Wells for the \$200 which you

*Plattsburgh, february 15, 1812.

Dear Sir: I had the honor to write to you respecting the breaking of my house with the intent of robbing or murdering me. I also took the liberty to surmise whether or not it would be proper to claim from the executive of Lower Canada Joseph Colbreath Junr. the villain who I wounded and was rescued from the custody of our Sheriff here. I have been informed since that it was the general opinion of gentlemen in Canada that if a proper application was made the man would be surrendered.

You will oblige me to inform me by Mr. Palmer the bearer if any thing can be done through you or not. Had we that man in our jail I believe the instigators of that piece of villany could not escape punishment.

I am dear sir, respectfully, Your Obedt. humble servant.

Governor Tompkins.

Petr. Saily.

authorized me to pay him & not having heard anything on the subject since, I begin to be apprehensive it may have miscarried.

The Honbl. Albert Gallatin.

DR. CHICHESTER BROWN APPLIES FOR A SURGEON'S POSITION IN THE
ARMY.

Albany, Feby. 12, 1812.

Sir: Dr. Chichester Brown, of Orange County, in this State is desirous of obtaining the appointment of Hospital Surgeon, or, if that be impracticable, of Regimental Surgeon in the Army.

He is a Gentleman of the first literary & professional endowments. He is Son in Law to the venerable Doctor James G. Graham, whom I had occasion to mention to you a few days since.

Dr. Brown's Professional, moral & political standing & a sincere desire to be instrumental in promoting the happiness of Dr. Graham, who is one of the worthiest of Men, require me to recommend Mr. Brown in the warmest manner for the appointment he wishes to obtain.

The Honbl. Wm. Eustis.

REVISION OF CHANCERY PROCEEDINGS.

Albany, Feby. 12, 1812.

Sir: The enclosed document has been transmitted to me by several of the Masters of the Court of Chancery in the City of New York; and as the communication of his honor the Chancellor has been referred to a Committee of which you are Chairman I deem it an act of propriety and justice to lay this document also before that Committee.

Mr. William Ross.

THE GOVERNOR TO MR. COMPTROLLER M'INTYRE—WHARFAGE AT SAG
HARBOR AND MR. FRISBEE'S BOND.

Albany, Feby. 12, 1812.

Sir: As the enclosed document decides the Quantum of Wharfage which is to be accounted for by the agent of the State at Sagg Harbour, it seems proper that it should be deposited in your office and I enclose it to you for the purpose of being filed there accordingly.

I have to apologize for the trouble I gave you in searching for Mr. Frisbee's Bond in your office. It had escaped my recollection that I had returned it in my own possession where it has since been found.

Archibald McIntyre, Esqr.

THE GOVERNOR RETAINS COUNSEL TO PROTECT STATE INTERESTS IN
THE TITLES OF ONONDAGA SALT SPRINGS TITLES.

Albany, February 12, 1812.

Sir: I beg leave to inform the Committee appointed upon the subject of the Onondaga Salt Springs, that in the act constituting Commissioners for settling the titles to salt lots, no provision was made for agents or Counsel to collect arrange and enforce the evidence in behalf of the rights of the State; and it would not be expected that the Commissioners would descend from the impartiality of their station to search out or produce evidence. I deemed the importance of the subject such as to justify me in the opinion of the Legislature to anticipate their wishes by employing counsel to appear before the Commissioners in behalf of the State. I accordingly engaged Mathew Williams, Esqr., the district Attorney, who attended

the Commissioners and discharged the trust reposed in him with ability & fidelity, for which I have in behalf of the State paid him one hundred and twenty five Dollars. It is submitted to the Committee whether my conduct in this respect will justify Legislative confirmation, and if it will, the Committee are respectfully requested to recommend or bring in a clause to reimburse me the sum advanced as aforesaid to Mr. Williams.

The Chairman of the Committee of the Legislature on the subject of the Salt Springs.

THE GOVERNOR INFORMS DR. GRAHAM ON PERSONAL AFFAIRS.

Albany, Feby. 12, 1812.

Honored Sir: Your letter of the first Inst and also a former one came duly to hand. I wrote upon the receipt of your first in favour of Mr. Stewart & upon the rec't of your last I addressed to Dr. Eustis, the warmest recommendation of Dr. Brown which I have hitherto sent. I have never visited Washington City nor sought confidence or favours there by any other means than by my official deportment &, therefore, I am unacquainted with the efficacy of my recommendations there.

I am sorry you do not mention in either of your letters the State of your Health. Myself and family have enjoyed remarkable good health since I had the pleasure to see you.

I do not understand your observation relative to the Bridges in your Country. If there were any danger or difficulty crossing them, we either did not observe it or it has escaped my memory: And, therefore, that circumstance will have no influence in deterring me from calling on you whenever business or pleasure may lead me through Ulster.

You will do great injustice to my respect and affectionate regard for you, to suppose that any information, advice or business which you have occasion to give me, will be deemed obtrusive or troublesome.

Please present my respectful compliments to Mrs. Graham & the family, & remain assured of my great veneration and esteem for yourself.

The Honbl. James G. Graham.

THE GOVERNOR INDORSES MR. DONNELLY'S APPLICATION TO BECOME
A SAILING MASTER.

Albany, Feby. 12, 1812.

Sir: Mr. Donnelly, mentioned in my letter of the 16th of Jany Ulto., would be glad to receive the appointment of Sailing Master, provided you think him competent from the description I have given of him. He says he should not wish to be appointed without its being explicitly known to you that he has never been at Sea, but has served on Board a Hudson River Vessel or Sloop, constantly from twelve years old and can sail and manage a Gun Boat as well as any person in the State. I repeat these facts at his request, that you may be able to judge from the extent of his nautical knowledge and practice of his fitness for the office of Sailing Master. Should you deem that knowledge & practice sufficient to justify his appointment & assign him to a Gun Boat in the first instance, he will receive the office gratefully and exert himself to discharge its duties faithfully.

The Honbl. Paul Hamilton.

MR. SMITH'S ACCOUNT SETTLED.

Albany, Feby. 12, 1812.

Dr. Sir: By the mail which conveys this letter I have written to Genl. Morton to settle your account at the rate allow'd last year, and have remitted funds to the Commissioners for that purpose.

Arthur Smith, Esqr

AGGRESSIONS UPON INDIANS.

GOVERNOR TOMPKINS GIVES DETAILED INSTANCES TO THE CHAIRMAN
OF THE ASSEMBLY COMMITTEE ON INDIAN AFFAIRS.

Albany, February 12, 1812.

Sir: I consider it to be my duty to make you acquainted with the proceedings which have taken place under the authority given last year, relative to the purchase of Lands from the Indians.

The reversionary claim of the Oneida Nation of Indians to the Brothertown & Stockbridge tracts of Land, was extinguished at a Treaty held at Oneida Castle, in July last. A Release to the people of this State was obtained for the consideration of 1200 Dollars, which has been paid. No annuity has been allowed &, therefore, the aforesaid sum with the expences of the treaty is the whole price which that important claim will cost the State. The above treaty was held in pursuance of the fifth Section of our Act, passed 29th March 1811. entitled "An act for the benefit of the Onondaga tribe of Indians, & for other purposes." The authority to treat with the Seneca Nation of Indians, for the purchase of the Islands in the Niagara River, was predicated upon a previous suggestion from some of the Chiefs, of willingness to dispose of those Islands. In May I rec'd. a notification, that they had changed their minds & were disinclined to negotiate upon that subject during the last year. In the course of a journey to the westward, however, I had an interview with a deputation of chiefs and warriors of that Nation which produced no change of the determination of which I had been notified in May. I took that opportunity of explaining to them the nature and slenderness of their title by shewing them that by Mr. Pick-

ering's Treaty held at Canandaigua in November 1794, the lands which they reserved were specifically described by metes and bounds, which metes and bounds excluded the aforesaid Islands, and that as by that treaty they expressly released every pretension and claim to any lands without the boundaries of their Reservation, the said Islands did now in strictness belong to the State of New York. The supposed right of Sir John Johnson to those Islands was noticed, and the consequent title of the State to them without a purchase from the Indians explained. If Sir William Johnson ever had a valid title for those Islands from the Indians, it descended upon his death to Sir John Johnson, upon whose attainder it vested in the people of this State. It was suggested to the Senecas, that the State would nevertheless manifest its friendship and liberality towards them by purchasing and paying for that which by rigid Rules might be recovered without consideration. It was barely urged by me that the preceding circumstances ought to have great weight upon their minds in deciding upon the price of the land contained in those Islands.

I have no doubt the precarious State of our relations with Canada alone, induced the Senecas to defer any negotiation relative to the sale of the Islands in the Niagara River to some period at which a treaty might be held by them on that subject without exciting the jealousy and suspicion of the Canadian Government. If the power to make the purchase be not revoked, I feel well assured that it may be effected in the course of the ensuing year. The chiefs with whom I conversed, manifested great solicitude to maintain amity and perfect friendship with the Inhabitants of this State. They remonstrated against the intrusions upon their territory by White people, but expressed

much satisfaction at an assurance by me that I would recommend to the Legislature to punish such intruders in some prompt and summary manner.

I have been induced by considerations of prudence, to forbear to open a treaty with the St. Regis Indians pursuant to the authority granted last Session, in consequence of the delicate situation of affairs between the United States and Great Britain. The most open and candid negotiation with an Indian Tribe divided in their attachments & affections between Great Britain and the United States, resident upon the Boundary line between us and Canada, could not have failed during the last year to excite Jealousy and alarm amongst our Canadian neighbours, or to be construed into an attempt indirectly to tamper with the Indians upon the eve of an apprehended Rupture. I trust my determination to defer for that reason, to a more convenient session, the execution of the power vested in me by the concurrent Resolution of 23d March last, will be judged to have been discreet and worthy of your approbation.

With respect to intrusions upon lands of the Oneida Indians, I have only to say, that cases come under my own observation during the Treaty at the Castle, which excited my sympathy for the persecuted individuals of that nation, who had been violently expelled from their huts, gardens & plantations by white people. I made enquiry into one of the complaints, the intruder being present at the Treaty, confessed the fact, and being alarmed by the indignation which I expressed at his conduct, and by an assurance that on my Return from the Westward, I should interfere to his sorrow, he abandoned his usurpation and surrendered possession to the injured Indians before my Return.

With Respect to Trespasses upon the public lands owned by the State, the complaints from Oswego, Niagara and other places, of the waste and destruction of Timber &c by intruders, have been numerous & various. The law confirming a purchase from the Oneidas expressly declared that there should be no right of preemption to those lands with a view to discourage trespassers upon that tract. Notwithstanding which, One Palmer amongst a variety of Trespasses, went and took possession of a Lot on the Turnpike Road adjoining the Oneida Creek, at the head of Navigation, where is an eligible site for an important village. An ejectment was brought when Mr. Van Vechten was Attorney General, but has not yet been tried. He has built a dwelling House, Shed and other conveniences for a Tavern, and pays no regard to the orders or measures of the Public Officers.

The timber on Grand Isle, in Niagara River, belonging to the Senecas is some of the best in the vicinity of the Lakes. My information from the Senecas and from others, together with my own observation, in passing the Island by land and by water last summer, enables me to say that the destruction of timber by the White Inhabitants both of the American and Canada sides has been great.

Complaints have also been repeatedly made to me by the St. Regis Indians of trespasses of white people upon their lands.

It will not, perhaps, be expected by the Committee that I should state any opinion as to the remedy for intrusions upon State lands or Indian Territory, other than that suggested in my public communication to the Legislature. In the year 1788, An Act was passed giving authority summarily to expel Intruders from the possession of public lands, and declair such intru-

sions to be an indictable offence, which act was executed with salutary effect. Perhaps the Attorney of the District would be the most proper person to take notice of the Complaint of intrusion in the first Instance, and to draw and present the necessary process. The first Judge of the County might be the Judicial Officer to award the process, and the Sheriff the proper officer to execute it.

A warrant for apprehending the offender to give bail for his appearance at the ensuing Court, and a warrant for removing his family and goods would perhaps be the only needful process.

Thos. P. Grosvenor, Esqr., Chairman of the Committee on Indian affairs.

THE GOVERNOR ACKNOWLEDGES MR. CURTENIUS' POLITENESS IN
FORWARDING AN OFFICIAL CENSUS RETURN.

Albany, February 12, 1812.

Dear Sir: I feel much obliged by your politeness in procuring & sending to me an official Return of the Census. I send you a check for the amount of the Clerk's bill, which bill I will thank you to have receipted and enclosed to me by mail. As the expenditure was for the State it will be necessary for me to have a voucher for it.

I have no right to give you this additional trouble, but I trust to your usual kindness for a compliance and will add that whenever an opportunity presents of returning the favour it will give me pleasure to embrace it.

Peter Curtenius, Esqr.

THE GOVERNOR TO GENERAL MORTON ON FINANCIAL AFFAIRS, WITH
A CHECQUE FOR MR. FLEWWELLING.

Albany, February 12, 1812.

D'r Sir: Yours of 29th January, arrived at a season of great tumult & business in my office, which must be received as my apology for delay in answering it. I have drawn on Mr. Flewwelling in favour of the Commissioners for \$1250, with which you will proceed to pay Mr. Smith & others & then send me your account, vouchers and Annual Report. I see no just grounds arising out of the Communication which were made to me in January, to fix any other Rule for the compensation of Mr. Smith, than that which was adopted last year, and as it falls upon me to determine that point I request you to settle his account accordingly.

Genl. Jacob Morton.

P. S. Why lingers your return for promotion.

Albany, February 12, 1812.

D'r Sir: I enclose a check on the State Bank in your favour for \$1250, which I will thank you to carry to the credit of the Commissioners of Fortifications.

Samuel Flewwelling.

GOVERNOR TOMPKINS RECOMMENDS MR. HEARD AS CONSUL GENERAL
TO LONDON.

Albany, February 17, 1812.

D'r Sir: I am informed that there is a vacancy for a Consul in London occasioned by the Death of Mr. Lyman. Mr. Nichos. T. Heard,* late of New York has resided in London for some years past and contemplates making it his future residence, should he be honored with the above mentioned office.

*Mr. Heard failed of appointment.

I am not personally acquainted with Mr. Heard, but from the assurances I have recd. with respect to his intelligence, mercantile knowledge, & respectable character, I am enabled to recommend him to your notice for the appointment of Consul at London.

Genl. John Smith.*

N. B. A copy of the above was directed to Genl. O. German.

MR. STOCKHOLM ACCUSES PHILIP SPENCER OF ATTEMPTING TO
 TRADUCE HIS CHARACTER.

Albany, February 17, 1812.

Sir: Your letter of the 14th Instant† contained the first intimation which I have received to the best of my recollection, of imputations against your character.

D. B. Stockholm, Esqr.

*Smith, John, was born at Brookhaven, New York; a member of Assembly 1784-1799; elected a representative from New York in the Fifth Congress (in the place of Jonathan N. Haven, deceased) as a Democrat, receiving 1,599 votes against 1,098 votes for S. Wood, Federalist, and 150 scattering; re-elected to the Sixth, Seventh and Eighth Congresses, serving from February 6, 1799, to February 23, 1804, when he took his seat as a United-States senator from New York (in place of De Witt Clinton, resigned), serving to March 3, 1813; was appointed by President Madison in 1813 United-States marshal for the district of New York; died at Brookhaven, New York, August 9, 1816.

†To his Excellency Daniel D. Tompkins Esq., Governor of the State of New York.

Sir, From the conduct of P. Spencer Junior towards me since his return from Albany—From his confusion and other evident marks of guilt which were clearly manifested to my mind at my first interview with him after his return to this place—and from the general tenor of his conduct since that time I am constrained to believe that he has been very active in his endeavours whilst at Albany to traduce my character and to create in the minds of your Excellency and the Council a suspicion that I am unworthy of the offices for which I have had the honor to apply. The character of Phillip Spencer must be well known to your Excellency. It is therefore altogether unnecessary for me to attempt its delineation.

If my conjectures are correct—If Mr. Spencer has had the meanness and cruelty to asperse my character for the purpose of the gratification of unprovoked malice and of having the fiendlike satisfaction of beholding a young man just entering on the theater of action and who has never injured him in any respect disappointed in his well founded expectations altho' my application may not be successful in consequence of his misrepresentations—yet I am compelled to pity whilst I abhor and despise the monster. The offices would be very acceptable to me—But I appreciate the good opinion of your Excellency (for whose character I have the highest veneration) much more highly than any office in the gift of the Council the duties of which I am qualified to perform—and shall consider it one of the greatest misfortunes of my life if the malice of the abovementioned person shall have injured my character and diminished the good opinion which your Excellency may have entertained concerning me. I could

THE GOVERNOR FORWARDS TO THE SECRETARY OF WAR THE ANNUAL
RETURN OF THE STATE'S MILITARY STORES.

Albany, February 19, 1812.

Sir: I have the honor to enclose the Annual Report & return for 1811 of the Military Stores belonging to the State of New York.

The Honbl. Wm. Eustis.

SEVERAL ADDITIONAL MILITARY APPLICATIONS FROM THE GOVERNOR
TO THE SECRETARY OF WAR.

Albany, Feb'y 21, 1812.

Sir: Messrs. Alexander Ferguson, Mansfield Barlow, and Eliud L. Davis of Charlton, in the County of Saratoga are desirous of obtaining appointments in the New Army. The first wishes a Captaincy, the second a Lieutenancy, the third will be content with an Ensign's Commission. I have the best evidence of the good Moral characters & respectable standing of each of them & believe that were they appointed, they would be able to enlist a Company in that part of the State in which they reside: Mr. Ferguson has heretofore commanded one of the best Light Infantry Companies of Saratoga County. I have no doubt the above named Gentlemen are qualified for and worthy of the stations solicited by them and recommend them accordingly.

The Honbl. Wm. Eustis.

have obtained recommendations from many of the most respectable gentlemen of this county but did not deem it necessary because I conceived that the information communicated to your Excellency on this point by D. A. Brinckerhoff Esq. a connection of mine would be satisfactory.

I am sorry to trouble your Excellency with the perusal of letters which can interest no one but myself and hope that the desire of vindicating my character will apologize for my intrusion on your time and patience.

I am with great respect Your Excellency's very humble servant.

Derick B. Stockholm.

Po'hkeepsie, Feb. 14, 1812.

ANNUAL REPORT OF THE
A FINANCIAL TRANSACTION.

Albany, Feby 21, 1812.

Sir: Herewith you will receive a check payable to your order for \$600, which together with the check for 1000 Dollars heretofore transmitted, will meet my note payable the 28th. I will thank you to deface the endorsement and enclose the note to me after it shall be paid.

Being much pressed at this busy moment, I can only add, that although I prefer paying off at this time my note for \$1600 yet should I find myself straitened before my return to New York, I shall take the liberty of availing myself of your kind offer to procure me accommodation provided, I shall not be advised by you in the mean time that my credit is impaired with the Directors of the Mechanics Bank.

I entertain a due sense of their politeness and of your personal kindness.

Francis Cooper, Esqr.

P. S. I recd. a letter from Mr. Fenwick a few evenings since, which I will answer at the first leisure moment. Please to mention this the first time you see him.

A DRAFT ON WHITEHEAD FISH.

Albany, Feby 21, 1812.

Sir: I have the honor to acknowledge the recpt. of your draft No. 4035 on Whitehead Fish, Esqr, in my favour for Two hundred and Six Dollars.

Tho T Tucker, Esqr.

MORE ARMY RECOMMENDATIONS FROM THE GOVERNOR.

Albany, Feby 21, 1812.

Sir: John W. Gibson, Esqr. Attorney & Josiah Falconer, Merchant resident in the City of New York are applicants for appointments in the Army. Mr. Gibson lived with me from 14 to 21 years of age [sic]. He is intelligent and ardent and would I think make an active & capable subaltern officer.

Mr. Falconer is also an intelligent, active & moral young man in every respect fit for the office of Lieutenant in the Artillery. Both the above mentioned Gentlemen are Republicans.

The Honbl. Wm. Eustis.

Albany, February 21, 1812.

D'r Sir: One of your constituents Major John V. H. Huyck, of Ulster, is anxious to obtain the office of Major in the Army. With Mr. Huyck's moral & political character you must be better acquainted with than I am. In intelligence and appearance he seems to be well calculated for that appointment. I will thank you to mention his name to the Secretary of [War] with such statement relative to his moral character & standing in society as your knowledge of him may enable you to give.

The Honbl. Thomas B. Cook.

THE GOVERNOR CONGRATULATES MR. SAILLY ON HIS ESCAPE FROM A ROBBER AND REFERS TO THE WEAKNESS OF THE LAW REGARDING FUGITIVES FROM JUSTICE.

Albany, Feby 21, 1812.

Sir: I have been honored with your letter apprising me of the Burglary & intended Robbery of your House and rejoice that the villians were repulsed & your life preserved. Upon the receipt of that letter I addressed a communication to the Secretary of

the Treasury urging the propriety of taking measures for an arrangement to apprehend Fugitives from the Justice of the respective Governments of Canada & the U. S. The law which now exists respecting Fugitives from justice extends to demands from the Executive of the respective states only. If, therefore, any application should be made by me to the Governor of Canada, it must be predicated upon an appeal to the Courtesy, which ought to exist between neighbouring Governments, and should he yield to my request in this instance upon the ground of Courtesy, he would expect that where an offender should escape hereafter from Canada into this State, a similar demand of his would meet with the like attention from us. But you know the Executive of this State has no power or control over the liberty of an individual, which would enable him to arrest or surrender him up to a foreign Government for a crime committed there. I have always, therefore, heretofore declined to make any formal or official demand from the Government of Canada of Fugitives from the justice of this State. But should you desire or point out any method by which informally or through the agency of private persons, I could be instrumental in obtaining the apprehension and surrender of Colbraith it will afford me the greatest satisfaction to engage in it. I am in hopes of hearing from the Secretary of the Treasury in a few days, when I will write to you again upon this subject.

The pressure of the business & the loss of time incident to the sitting of the Legislature & of the Councils must plead my apology for the delay of this answer.

With respectful regards to Mrs. Saily & family and with assurances of esteem and attachment for yourself.

The Honbl. Peter Saily.

P. S. Would the offering of a reward have any good effect in procuring Colbraith's apprehension.

THE ARMY OF MILITARY APPLICANTS INCREASING.

Albany, 21 Feby, 1812.

Sir: Mr. Henry Wells whose recommendation is enclosed solicits the office of Lieutenant in the Army. My confidence in the assurances of Genrl. Wilkin and his colleagues who subscribe the within, added to my knowledge of the appearance and intelligence of Mr. Wells justify me in recommending him to your favourable notice.

The Honbl. William Eustis.

THE GOVERNOR TESTILY OPPOSES THE AMBITION OF CERTAIN
FEDERALIST MILITARY OFFICERS.

Albany, Feby 22, 1812.

Dear Sir: By the politeness of a friend I have been favoured with a list of some of the Candidates from this State for promotion or appointments in the Army. Amongst them I observe the names of following Gentlemen who are said to have been mentioned for General & field officers viz't: Benjamin Walker, Quarter Master General; Samuel A. Barker, Brigadier General; William North, Brigadier General; Aquila Giles, Lt Colonel; Solomon Van Rensselaer, Colonel.

The State of New York scarcely contains other five men more distinguished for political intolerance or in whose capacity and fitness in other respects the Republicans of this State have less confidence. I hope you will duly appreciate my motives in sug-

gesting that in my opinion the Republicans of this State will not relish the Appointments of such men as the before mentioned to the most important Military Stations.

The Honbl. John Smith.

THE GOVERNOR SUGGESTS SEVERAL NAMES TO CONGRESSMAN COOK.

Albany, 22 Feby, 1812.

Dr Sir: Col. Darius Phelps, Ezra Post, Junr, Rem Allen, Edward W. Hinman & John Giddons all of the County of Greene are candidates for the Army. As you are personally acquainted with the persons who recommend them and I believe with most of the Candidates, I have thought it most prudent to enclose their papers to you with a request that you will lay before the Secretary of War with such remarks as to the character & politics of the several Gentlemen as you may judge proper. Permit me to observe that I have been introduced to several of the Candidates & that their appearance together with the respectability of their recommendations, induces me to believe that they are suitable characters for the respective stations solicited by them; additional credentials of Dr. John A. Hart whose name was contained in my last letter are also enclosed.

The Honbl. Thomas B. Cook.

THE GOVERNOR RECOMMENDS MR. BLAIR AS A MIDSHIPMAN.

Albany, Feby 22, 1812.

Sir: I am desired to forward to you the enclosed papers with a view to obtain the office of Midshipman for Jok K. Blair mentioned therein.

Mr. Nicholson was formerly a representative in Congress from this State and is a Gentleman in whose representation I have full faith. Your acquaintance at Charleston, will enable you justly to estimate the testimonials of Mr. Blair, subscribed by Gentlemen there.

The Honbl. Paul Hamilton.

THE GOVERNOR SUBSCRIBES TO THE "LYNX."

Albany, 22 Feby, 1812.

D'r. Sir: Having occasion to address a few lines to the Editor of the "Lynx" I have ventured to trespass upon your goodness so as to send the letter under a direction to you & ask of you the favour to deliver or forward it to Mr. Fay.

Jasper Hopper, Esqr.

Albany, Feby 22, 1812.

Sir: Your communication under date of the 27th of January came duly to hand; but the pressure of business incident to the early part of the Legislative session has prevented an earlier attention to its contents.

You will please to consider the twenty five Dollars now enclosed as my original subscription to the establishment of the "Lynx." Any occasional contributions in future which may be required and which may comport with my pecuniary resources will be chearfully afforded.

Mr. Thomas C. Fay.

THE GOVERNOR TO GENERAL PORTER—RECOMMENDS MILITARY
APPLICANTS.

Albany, Feby 22, 1812.

D Sir: Presuming that you are acquainted with Col. Thaddeus M. Wood, of Onondaga County, I have taken the liberty of enclosing his letter recommending three young Gentlemen for the Army. You may also be personally acquainted with some of the candidates mentioned by him.

Captn. Sexton & Mr. Babbit are, as you will observe, recommended by the first characters of Schenectady. Mr. Sexton has commanded an Artillery Company at that place with reputation and is regarded as a moral, respectable & intelligent Republican.

Peter Sexton, son of Captain Sexton is solicitous for a cadet's warrant. I have satisfactory assurances from Mr. Yates and others of his intelligence & Morality and feel confident in recommending him for a Cadet. His age is sixteen years.

If you will be so kind as to lay the enclosed papers before the War Department with such favourable remarks as your acquaintance with the subscribers and candidates will warrant, you will confer an essential favour on them and at the same time will oblige.

The Honbl. Peter B. Porter.

THE GOVERNOR PERFORMS A KINDLY ACT FOR A FRIEND IN THE
INTEREST OF MASTER JOHN GRIGG.

Albany, Feby 22, 1812.

Dr. Sir: I enclose a letter containing some observations about master John of the import you desired. I have thought

proper so to word the letter that it may not appear to have proceeded from your suggestion.

Mr. John Grigg.

Albany, Feby 22, 1812.

D'r Sir: Having a few moments of leisure I avail myself of it to drop you a few lines advising you of the good health of myself & family.

The session of the Legislature has progressed thus far with remarkable harmony and unanimity. Party considerations seem to have yielded & hope on all occasions they will yield to paramount national concerns.

It will give Mrs. Tompkins & myself great pleasure to be informed of the health of Mrs. Grigg & the family; mention me affectionately to master John; tell him from me that he must not becloud his promising beginning by relaxing in industry & progress in study. I remember when I was about his age, my vanity often induced me to suppose that I had obtained sufficient education and information to make my way through the world with reputation and usefulness, but my good father & my teachers thought otherwise & their opinion prevailed. I have often thought of the deplorable consequences which would have followed, had I been allowed to follow the suggestions of my own immature judgment. This information will not perhaps be needed by master John, who doubtless thinks more justly upon those subjects than I did, and who would not for any consideration be debarred of the privilege of continuing his studies until he shall arrive at the age of twenty one. I shall be mortified, if he entertain or practice my former boyish opinions upon that subject, and forsake his studies in youth, for he will thereby destroy the confidence which I entertain of his future reputation

& usefulness, & will when he arrives at my present age lament it. If, therefore, he should even speak of leaving academical studies until he shall be advanced to the age of eighteen or twenty years, earnestly caution him against it, for if he do leave his studies before that age and enter into profession of a Clergyman, Lawyer or Doctor, the want of a more thorough classical education will, forever, keep him in the lowest and most contemptable grade of his profession.

Mrs. Tompkins desires to be affectionately remembered to Mrs. Grigg to whom & to Mr. Pell, your family & yourself I tender my respectful regards.

Mr. John Grigg.

THE GOVERNOR FORWARDS MONEY TO PAY FOR CARTRIDGE BOXES.

Albany, 22 Feby, 1812.

Sir: I have forwarded the money to pay you for the Cartridge boxes &c by Mr. Mclean, who left Albany this morning. The variety & perplexity of my duties for some time after the commencement of the Legislative session is my only apology for the delay of the above mentioned remittance.

Benjamin Haight, Esqr.

THE GOVERNOR TO THE ADJUTANT-GENERAL IN REGARD TO AMENDING
THE MILITIA LAW.

Albany, 22 Feby, 1812.

D'r Sir: Yours of the 18th with the enclosures is recd. The letter to Genl. Hurd was received and forwarded. It so happened that two days before your letter arrived I had received Col. Cleveland's return of Hurd's Brigade and had enclosed it to Genl. Hurd in like manner as you did the other Regimental

returns of his Brigade. In the same way returns from Dutchess have been sent back by me; so that you see I have some decision left.

You need not make out any formal report unless you choose. If you will send me Militia law or the alterations you have prepared, or your memoranda for the alteration or revisal of the old law, it will be sufficient. As the Military Committee have once or twice jogged my elbow, the sooner the preceding papers are forwarded the better.

The Honbl. Wm. Paulding, Junr.

THE GOVERNOR CORDIALLY RECOMMENDS ELISHA TAYLOR FOR A
LIEUTENANCY OF ARTILLERY.

Albany, Feby 24, 1812.

Sir: Mr. Elisha Taylor of Schenectady, is now a cornet of Horse Artillery, and wishes to be appointed a Lieutenant in the Artillery of the United States. He is an enlightened, enterprising, young Gentleman, of excellent moral character of Republican principals & well suited in point of age and military qualifications for the appointment above mentioned, for which I cordially recommend him.

The Honbl. William Eustis.

THE GOVERNOR DISPOSED TO DISCIPLINE GENERALS OF MILITIA.

Albany, Feby 24, 1812.

Dear Sir: The return from Major General Stephen Van Rensselaer was handed to me with an explanation which induces me to think that it is most best to send it back to him. He informed that the Return for one Brigade was all he had received—that

he considered it his duty to make that Return to you and enquired of me the proper course to be pursued with his Generals, whose returns were yet wanting. I gave him my opinion that he ought to represent their delinquency in a letter addressed to me which I would lay before the Council, which he agreed to do. My opinion is that in every other case where no explanation or representation against the delinquent Genrl. shall accompany a partial Return, so that the Council cannot take notice of the matter or act upon it, the return ought to be sent back with your reasons for doing so. But this seems to be unnecessary, where the Major General shall send all the returns which have come to him & shall, moreover, represent therewith, such facts as will constitute specific charges against the delinquent Generals for a Court Martial or for the Council of Appointment to notice their conduct summarily. I must confess, that I am at present in favour of the latter method, and if you approve of it & report to me the names of those whose division or Brigade Returns either of Inspection or for promotion do not comport with the law & General Orders, I intended to propose to the Council to call upon the whole lot to shew cause by a certain day why they should not be removed from office. Such a call published in the newspapers would in my opinion have an awakening effect, especially if a few executions take place on the day appointed for shewing cause.

My letter of Saturday will apprise you of the expediency of forwarding your memoranda or proposed alterations of the Militia without any formal report, which has become unnecessary from the cause which has been adopted by the Military Committee.

The Honbl. Wm. Paulding, Junr.

THE GOVERNOR CALLS A DEBTOR SHARPLY TO TASK.

Albany, 24 Feby, 1812.

Sir: Not having heard from you relative to the interest of the sum of money which you borrowed of me in the year 1810, I take the liberty of reminding you that such remissness in the payment of interest is in direct contravention of the assurances you made me when the money was borrowed. I shall expect the payment of the interest due the last year, and of part of the principal without delay.

Stephen Lawrence, Esqr.

THE GOVERNOR SUBSCRIBES TO A WORK OF TRAVELS.

Albany, February 24, 1812.

Sir: My subscription for two copies of "Travels in the United States" is enclosed. The multiplication of official duties incident to the commencement of the session of the Legislature has prevented an earlier attention to your communication which accompanied the within proposals.

Mr. John Melish.

THE GOVERNOR INFORMS COLONEL MACOMB OF SOME OF THE PREROGATIVES OF THE COUNCIL OF APPOINTMENT.

Albany, Feby 27, 1812.

D'r Sir: By your letter of last evening, I observe your request for a copy of Mr. Wyman's application as matter of right. The minutes of the Council are public records but the recommendation upon which they act are not public papers or matters of record. They may burn the whole of them at the end of the session or daily. They appertain strictly to the Governor, who,

for the sake of getting rid of lumber sometimes, deposits them in the secretary's office, but he is not obliged so to do. The Council having decided your business, do not think it necessary to furnish you with a copy of the paper, especially as your name & character are neither mentioned or hinted at in it. My advice to you is to say little about the business. It can do you no good and may do you injury.

You see the Alderman has taken pretty rank hold in New York.

Col. Maccomb.

THE GOVERNOR REQUESTS DEFINITE INFORMATION FROM MR. VAN WYCK IN REGARD TO A PREVIOUS UNDERSTANDING.

Albany, Feby 26, 1812.

Dear Sir: I understand from Mr. Munro that in a conversation with you before he left New York you expressed yourself satisfied that a division of your office should take place, and that he should hold the Recorder's office and you the Commissioners. It is also probable the law for the division of the Clerks office will pass and make another opening.

Although you were willing to relinquish the Recorder's office last year if Mr. Munro could obtain it, and declared your readiness, after being reappointed, to resign it with that view, whenever I should suggest it, yet I have never thought it proper to make such request. But the information derived from Mr. Munro renders it necessary that I should now enquire whether you intend to resign the office, provided he can obtain the appointment or upon any other and what understanding. He declares that unless the Division shall take place or other satisfactory arrangement be made for you, he will by no means

qualify to the office of Recorder but will leave it in your hands. He, however, thinks the Federalists will be more ready to divide the office out of opposition to him, should he be appointed Recorder first, than they would be now. I flatter myself you will duly appreciate my motives, when, to prevent the possibility of any misapprehension between us, I request you to give me an explicit answer, whether you are content & satisfied that the Council should be consulted about the appointment of Mr. Munro upon the conversation you had with him or not; or in other words, whether you intend to relinquish the Recorder's office if he can procure the office. If yea, I ought to have it in writing.

The Honbl. P. C. Van Wyck.

THE ADVANCE CORPS OF VOLUNTEERS.

Albany, Feby 26, 1812.

Sir: Your letter bearing date the 10th Instant was received by the mail of this day.

I presume the Volunteers to compose the advanced corps of 50,000 men contemplated by the late Act of Congress, will, as was done before, be made through the Governor to the President. If, therefore, you will locate upon a station, consider yourself qualified & send me a written tender of your services in that station; it will be presented by me to the President without delay, and I have no doubt with success.

Mr. Henry Lowther.

THE GOVERNOR REFERS THE SECRETARY OF WAR TO CONGRESSMAN
COOK FOR INFORMATION.

Albany, Feby 28, 1812.

Sir: I have no personal acquaintance with Lizer B. Canfield and Ira Wilcox mentioned in the within recommendation. Genl.

Brown, Major Cantine & the others who recommended them are respectable characters in Greene County.

The Hon'bl. Thomas B. Cook in Congress is probably acquainted with the candidates and with all the subscribers to their recommendation, I, therefore, beg leave to refer to him for any further assurances which may be required.

The Honbl. William Eustis.

TO THE ADJUTANT-GENERAL CONCERNING BLANKS.

Albany, Feby. 29, 1812.

Dear Sir: I have been repeatedly asked where Blank returns for the ensuing year are to be obtained. I have refered the enquiries to Packard's. If he be not provided with Blanks or instructions concerning them please make arrangements with some person, to whom I may refer applicants, in relation to the distribution of Blanks from this City.

The Honbl. William Paulding, Junr.

TO CONGRESSMAN COOK IN RELATION TO MILITARY APPLICATIONS.

Albany, Feby. 29, 1812.

Dear Sir: I enclose you a recommendation by Mr. P. Van Ness, Esquire, of Joshua Wildey, for a Captains Commission in the Army. Although he is an intelligent & active man he has never performed Militia duty in capacity, & I am, therefore, of opinion that he would enter the army to more advantage to himself and the Country in the capacity of Lieutenant.

Barent J. Vanderpool, of Kinderhook, former Sheriff of Columbia wishes the station of Major in the Army. Mr. Van Alen

& others have recommended him so strongly that I entertain no doubt of his fitness for that office.

My reason for troubling you with these and other recommendations of the kind is two fold—first, because you are acquainted with the candidates & those who recommend them, & secondly, I am informed that the list of Candidates has been submitted to the members from each State to select & recommend to the President the proportion of officers allotted to such State.

The Honbl. Thomas B. Cook.

THE GOVERNOR OUTLINES HIS MILITARY POLICY TO THE VENERABLE
REVOLUTIONARY GENERAL, HEATH.

Albany, 29 Feby, 1812.

Honored Sir: Your communication of the 25 Feby instant came to hand this evening. The approbation of any part of my conduct or administration by distinguished veterans of the revolution is esteemed by me in no ordinary light. Information and advice from them I shall ever listen to with the most respectful attention, and that too without any previous personal acquaintance.

The limits of a public address to the Legislature would not allow a detailed development of the plan which has occurred to me for the improvement and perfection of our Militia so as to render them familiar with discipline, manœuvres and camp duty, at the first moment they may be called into the field. A proposal which I have made to the Committee appointed to take into consideration those parts of my speech, which relate to the Militia, and the defence of our frontiers, details more at large my views upon that subject. The plan suggested to them is

this: To maintain four district military Teachers, with salaries so liberal, as to invite to our state the first experience and talents in Military science and tactics—To convene the commissioned officers of each brigade in some central place one week in June and one week in September or October—To furnish them with arms and equipments and to place them under the command of the district teacher for that time for the purpose of being industriously instructed in discipline and manoeuvres and in Gunnery &c. This system would in a few years diffuse a practical knowledge of duty amongst the officers which could not fail to be highly beneficial to the Militia commanded by them. But besides the instruction of officers, attention ought to be paid to the privates so as to have at all times an advanced corps of the militia so disciplined and armed as to be able to take the field at a moment's warning and to contend with regular troops. To accomplish this gradually, I have proposed that 1000 Volunteers of the militia be encamped on our Northern frontier, 1000 on our Western frontier, and 2000 on the sea board for one month in each year, for the purpose of being disciplined, manoeuvred and taught all the duties of and inured to the mode of living in a Camp. The men to be allowed rations—a monthly pay two Dollars & fifty cents; and to be presented with a musket, cartridge box bayonet belt &c at the end of the month. The detachment on the seaboard to be instructed partly in garrison duty and the use of ordnance on gun boats and travelling carriages. These volunteers to stipulate to be the advanced corps upon any invasion or other emergency. Thus the militia might be gradually armed with the best of muskets of the same caliber, and even though the volunteers thus instructed and armed should not be wanted for actual service, they would upon dispersing amongst the militia of the State, gradually introduce

and diffuse a state of discipline and a fund of military knowledge, which would add greatly to the reliance and confidence to be placed in the militia generally. We should then be sure of assembling upon an emergency, detachments of militia in any quarter adequate for temporary purposes, well disciplined and acquainted with and qualified to perform camp duty immediately. Your experience will enable you to suggest many errors and imperfections in the plan which I have here detailed—and the frankness you have discovered in addressing me upon the subject of that part of my speech which relates to the above subjects, emboldens me to invite such further advice or suggestion of improvement as may occur to you to be beneficial to the militia establishment.

Major General Heath.*

THE GOVERNOR EXPLAINS TO MR. HURTIN THE USELESSNESS OF
APPLYING FOR A POSITION IN THE NEW YORK POST OFFICE.

Albany, Feby 29, 1812.

Sir: Yours of the 15th Instant came to hand regularly, but the multiplicity of my avocations has necessarily delayed an answer.

Two years since I recommended to Mr. Gelston,† five different persons for inspectors, one of whom Mr. James Ward was a

*General William Heath was born in Roxbury, Mass., March 7, 1737; died there January 24, 1814. He was active in organizing the Massachusetts militia before the Revolution; was a member of Committee of Safety and Provincial Congress; brigadier-general, December 8, 1774, and major-general, June 20, 1775—of Provincial troops; performed valuable services in pursuit of British troops from Concord, April 19, 1775, and in organizing the forces at Cambridge before the battle of Bunker Hill; brigadier-general, June 20, 1775, and major-general August 9, 1776; assigned to command Eastern department, 1777, and in 1779 to command of posts on the Hudson; remained in that vicinity until close of war. General Heath was the last surviving major-general of the Revolution.

†David Gelston, born in Southampton, L. I., July 7, 1743; died at Greenwich, in September, 1828, aged 85; Surrogate of Suffolk County, 1775; member of the Second, Third and Fourth Provincial Congresses; member of Assembly, Suffolk County, 1777-1785, and Speaker, 1784, 1785; Surrogate of New York County, 1787-1801; delegate to the Continental Congress 1788; State Senator, Southern district, 1791-1794 and 1798-1802; member of the Council of Appointment 1793; Canal Commissioner 1792; Collector of the Port of New York 1801-1820.

relation & particular friend of mine. Neither of them have been appointed. I also afterwards called on Mr. Gelston personally, who shewed me a bundle containing apparently hundred of applications prior to those which I recommended to his notice; and he, moreover, requested me not to sign any more recommendations, for, that there were no vacancies, and it gave those who obtained my name greater confidence of success and induced them to press him at such a rate as to be burthensome. Under those circumstances it would not be kind towards those whom I have already recommended, or acceptable to Mr. Gelston, that I should interfere in applications to his Department. I have, accordingly, forbore to unite in such recommendations for a long time past. I trust you will deem this frank statement of my situation an ample apology for declining to write to Mr. Gelston on the subject mentioned in your letter of the 15th Instant.

John H. Hurtin, Esqr.

THE GOVERNOR GIVES THE GUN FACTORIES IN THIS STATE
PREFERENCE.

Albany, Feby 29, 1812.

Sir: Your letter of the 5th Instant was duly received. The authority heretofore given to purchase or contract for muskets and Rifles has been exercised in contracts which have been nearly completed. Until further Legislative provision upon that subject shall be made, it will not be in my power to extend to your establishment Governmental employment. Whenever such further authority may be given, I shall advise and direct the Commissary to give the gun factories within this State the preference.

Mr. William W. Dougherty.

THE GOVERNOR TO JOHN TARGEE—FINANCIAL TRANSACTION.

Albany, Feby 29, 1812.

My esteemed friend: I have not been able to answer your letter of the 12th Inst sooner for want of time. My three bonds for 6,500 Dollars which I mentioned before, are secured by one Mortgage. If, therefore, I should assign one of them to any person I might still defraud him by cancelling the Mortgage, and I do not wish to have any one so much in my power. I have other bonds and Mortgages for 2500 Dollars each, but the persons who have the money are not very punctual in the payment of interest, and, therefore, I could not dispose of those Mortgages to any one conscientiously without apprising them of that fact. I do not wish you to call in any money on my account, nor lose any opportunity of putting out what money be paid in. I shall be down previously to May when you expect the nine hundred pounds to be paid in and will then converse with you on that subject.

I am flattered with your approbation of my speech. Be pleased to present my respectfull regards to your wife, and accept for yourself a sincere declaration of my friendship & esteem.

Mr. John Targee.*

TO COLONEL HENRY BLOOM REGARDING TECHNICALITIES IN MILITARY COMMISSIONS.

Albany, Feby 29, 1812.

Dear Sir: If I understand the facts detailed in your communication of the 16th January last, there can be no doubt that

*John Targee was a goldsmith and silversmith at 192 Water street, New York city. He furnished the swords which were ordered by the legislature to be presented to Generals Jacob Brown, Alexander Macomb, Commodore Thomas Macdonough and other distinguished army and naval officers.

Captain Bradley (& every other Captain of your Regiment, the date of whose Captain's Commission therein is prior to April last) is superior to & takes rank of Capt. Ellis. The Captain's Commission under which Mr. Ellis now acts, bears date you say last April; and as officers of the same grade in any particular corps, are to take rank in such grade according to the date of their respective Commissions therein (see the VIII section of the Militia law of the United States) it follows without a possible doubt, that all the Captains of your Regiment, whose Commission as Captains bear date before Mr. Ellis's Commission as Captain, precede him in rank & in right to promotion.

An officer, which gave rank in another corps, &c has been abandoned, waived, or resigned, may avail for some purposes, but cannot make the youngest captain the oldest. You have recourse to former Commissions, to decide rank only where the Captain's Commissions are of equal date, and even then a rank in another corps, or district which has been voluntarily waived or resigned can have no influence. All Mr. Ellis' present Military rights, liabilities, or privileges as a Captain, are derived from the Commission under which he now acts; and the date of that Commission alone decides his rank in your Regiment. If there be Captains, whose Commissions in your Regiment, bear equal date with his, and those Captains had previously held Lieutenant's Commissions in your Regiment, and Mr. Ellis had not, I am of opinion even those Captains take rank of him of course and without a draft.

Col. Henry Bloom.

TWO NINE POUNDERS PROMISED TO CAPTAIN JOHN MOUNT.

Albany, Feby 29, 1812.

Sir: I have to apologize for the blunder committed in the order transmitted to you some time since. It is now returned with a more correct direction.

My reason for giving the order for one nine pounder only, was that I presumed you would wish lighter pieces as soon as we could furnish them & that as the transportation of pieces so heavy as nine pounders would be considerably expensive, you would be content with one, until lighter ones could be forwarded. If, however, you wish two nine pounders now and write me to that effect I will send an order for another.

Captain John S. Mount.

THE GOVERNOR EXPRESSES HIS THANKS TO MR. LEWIS FOR
COMPLIMENTING HIM ON HIS SPEECH.

Albany, Feby 29, 1812.

Dear Sir: A multiplicity of avocations incident to a session of the Legislature—Councils of Revision and appointment—Regents of the University &c, has prevented an earlier answer to your obliging letter under date of the 9th Inst.

I estimate your remarks upon my speech as no ordinary compliment; and present you very sincere acknowledgments for your flattering approbation of the sentiments contained in it. Be assured, sir, that I shall always receive with great respect and attention, advice or even reproof, if kindly dealt out, from those whom I regard as candid upright men, whatever may be their situation in existing parties; and having always considered you as a personal friend withal, I hope you will be invited to address

me freely on all future occasions, where you think information, caution or advice, will be beneficial to the public or myself.

Beal N. Lewis, Esqr.

THE GOVERNOR RECOMMENDS JUDGE OSTROM AND IN PASSING RAPS
SEVERAL FEDERALIST CANDIDATES.

Albany, Feby 29, 1812.

Dear Sir: The enclosed letter is from Judge Ostrom, of Utica who wishes an appointment in the army. He was formerly a decided Federalist & represented Oneida County in the assembly for several years. But disappointment in 1810, and disgust with the Federal party since, has caused him to avow himself a Republican for upwards of a year past. He is well qualified for a Major in the army, and I can recommend him cheerfully for that appointment. Senator Bloodgood has given me the preceding account of his politics. He considers him a Republican and well qualified for the army. I presume you are acquainted with Judge Ostrom, for which reason and also because I understand it has been referred to the Members from this State to select a list of the officers which it is to furnish for the new army, I have ventured to trouble you with this business.

By a list which it is understood is before the Secretary of War I learn that the names of Benjamin Walker, William North, Samuel A. Baker, Aquila Giles and Solomon Van Rensselaer, are presented for the first grades of command which will be allowed to this State. Our Republicans will illy brook it that the command of an Army, in a contest with Great Britain, should be entrusted to such men.

The Honbl. Peter B. Porter.

THE MUSKET CONTRACT GRANTED.

Albany, Feby 29, 1812.

Gentlemen: Your communication of the 17th Instant was duly received, but the multiplicity of business incident to the sitting of the Legislature, has delayed an answer until the present time.

The authority to contract for muskets, heretofore given to the Commissary of Military Stores under the direction of the Governor, has been exercised & the whole quantity has been contracted for some time since. Unless, therefore, the Legislature shall make provision for procuring an additional quantity, it will be out of my power to comply with your request. I have recommended to the Committee on that subject to make an annual appropriation for muskets until an adequate supply shall be procured. Should they acquiesce in my opinion and report a law for that purpose I entertain no doubt that the Commissary will feel disposed to encourage the manufacture of them within this State & shall advise him accordingly.

Messrs. B. & J. Cooper.

TO MR. PHOENIX CONCERNING CUSTOM HOUSE SUITS.

Albany, Feby 29, 1812.

Dear Sir: I have written to Mr. Cook, Mr. Porter & Mr. Bleeker three of the Members of Congress from this State, requesting them to advocate your application to Congress for relief against imprisonment, the continuance of which is uncertain purely by the indisposition and absence of the Public functionaries. The multiplicity of my avocations for fortnight past has prevented an earlier answer to yours of the 8th Inst.

Alex Phoenix, Esqr.

Albany, Feby 29, 1812.

Sir: The case of Ingraham Phoenix & Nexen who are and for a long time have been in close confinement in New York appears to me to be an interesting one. The institution of separate suits by the United States against each individual on the several custom house bonds standing against them, has rendered it impossible to give adequate bail on the suits. The penalties of the bail bonds would in that way amount to sixteen times the amount really due.

The absence of the Judge & his inability before his departure to preside in Court, deprive them of the opportunity of being placed in a situation to apply to the Secretary of the Treasury for relief under the existing laws. They have, therefore, I understand applied for special Legislative interposition in their behalf. Although I should not be an advocate for such interposition generally, yet under the peculiar circumstances which exist in the District Court of New York, I hope you will find it consistent with your feelings and your duty to advocate their petition so far as to enable them to seek relief from the Secretary of the Treasury although Judgment & execution be not awarded against them.

The Honbl. Thomas. B. Cook.

A copy of the above was sent to the Honbl. P. B. Porter & one other to the Honbl. Harmanus Bleecker.

TWO CANDIDATES FOR CAPTAINS IN THE ARMY.

Albany, March 2, 1812.

Sir: Amos Barnes, of Lewis County, is desirous of being appointed a Captain in the Army of the United States. He now

holds a Commission in the Militia of this State the duties which he has discharged with ability and fidelity. He is also represented to me as a young man of sound moral & political character by the Genl. of his Brigade & the field officer of his regiment. I, therefore recommend him for the office of Captain in the Army.

The Honbl. William Eustis.

Albany, March 2, 1812.

D. Sir: Mr. Andrew Backus, of Athens in Greene County, solicits the office of Captain in the Army to be raised in pursuance of a late law of Congress. He is a person of intelligence & good character & well qualified for the command of a Company. I, therefore, cheerfully recommend him for a Captaincy.

The Honbl. Wm. Eustis.

A PROPOSITION TO SUPPLY WOOLENS FOR THE ARMY.

Albany, Mar 2, 1812.

D'r Sir: Mr. Abijah Jones of Sandy Hill, Washington County is concerned in the manufacture of common woolen cloaths to a considerable extent and can readily manufacture a quantity of Woolen Blankets. He wishes the patronage of Government by way of contract.

Remembering that you made enquiry of Mr. Watson upon that subject when in Hudson, I take the liberty of asking whether you are authorised to make contracts for the above articles for the Navy Department, & if not, whether you will inform who is, that I may recommend Mr. Jones to him. He is a friend to the country and the present administration and I feel anxious that he should obtain a share of Government employment.

I have been repeatedly desired to mention to you that the

Republicans in this quarter are desirous, that instead of Mr. Walton, some friend to the Government should have the transportation of Navy articles from this place to the western waters.

I have backed your charger but once and his spirits were then so high that it put me in a fine perspiration to ride him about ten miles. He is in good order & looks fine. As soon as the ice and snow leaves the roads I shall pay him off for his winter frolick.

John Bullus, Esqr.

P. S. Walton is considered in the light of a British Adherent and is largely engaged in smuggling from Canada, some of his loads have been recently seized. Eri Lusher, of Schenectady, is the Republican Transporter.

MR. SECRETARY GALLATIN TO GOVERNOR TOMPKINS RELATIVE TO
RESTORING FUGITIVES FROM JUSTICE.

Albany March 2, 1812.

D'r Sir: I enclose an extract from Mr. Gallatin's letter* in answer to the one which I wrote to him relative to Colbreath. I

*Treasury Department, Feb'y. 22, 1812.

Sir, I had the honor to receive your letter of the 11th inst. & communicated it immediately to the president. The mutual restoration of fugitives from justice seems in every instance to have been the result of a Treaty; and it is doubted whether it would be proper to make such provision with respect to Canada, by law and therefore without being assured of a reciprocity on the part of the British Government. You may also recollect that the 27th article of the treaty of 1794 which provided for the mutual delivery of fugitives charged with murder or forgery did not pass without animadversion and give rise to what is called Robbin's case.

The vacancy in the Comptroller's Office necessarily delayed the settlement of the account for the advance you had made to Asa Wells; and I rather chose to suspend the payment than to make it in the shape of an advance for which you would in that case have been charged on the Treasury books. I hope that you have received the remittance which was made on the 6th inst. and return you my thanks for the aid you were pleased to give on that occasion.

Permit me to embrace this opportunity to state that under existing circumstances the general government must in a considerable degree rely on loans for the service of this year and that if any of the banks incorporated by the State of New York are by their Charters precluded from Lending to the United States a repeal or suspension of such prohibitory provision would greatly facilitate the operations of government.

I have the honor to be with great respect Your Obedt. Servt.

Albert Gallatin.

His Excellency Daniel D. Tompkins Governor of New York, Albany.

am in hourly expectations of hearing from you as to the propriety of my offering a reward in behalf of the State. I do not think any direct application by me to the Governor of Canada would be successful or advisable under present circumstances.

The Honbl. Peter Saily.

THE GOVERNOR REPUDIATES ALEXANDER FERGUSON FOR POLITICAL
REASONS.

Albany, March 4, 1812.

Sir: By letter of the 21 Ultimo I took the liberty of recommending Alexander Ferguson, Mansfield Barlow & Eliud L. Davis, for Captain, Lieutenant & Ensign in the Army. At the time of writing that letter I believe that those who recommended them knew their political characters. I am since informed that the first named Gentleman is not well attached to the Government and administration, & I, therefore beg leave to withdraw my recommendation as to him. The other two gentlemen are well worthy of the appointments for which they were mentioned in my letter of the 21 Feby.

The Honbl. William Eustis.

HENRY BREVOORT GIVEN A LIEUTENANT-COLONEL'S COMMISSION FOR
USE IN FRANCE.

Albany, March 6, 1812.

D'r Sir: Your letter of the 3d Instant relative to Mr. Brevoort was received last evening. I could not hesitate a moment about complying [with your] wishes; and have, therefore, enclosed a Commission & letter which I will thank you to convey to him.

By the mail of last evening, I also received your budget of articles of the Militia beginning with No. 115. Many provisions of the present law are comprised in these articles and may, therefore, be dispensed with. Permit me to enquire whether you have modified or abridged the law now existing so as to comport with the articles. If you have please to enclose the draft of that part of the law to me as speedily as possible.

The Honbl. William Paulding, Junr.

Albany, Mar. 6, 1812.

Sir: I have heard from the Adjutant General that you expect to sail for France in a few days; and that you would be gratified to appear there with some Military title.

I embrace the earliest opportunity to testify my high regard and esteem for your family and for yourself, personally, by sending to you a Commission which bestows the rank & title of a Lieutenant Colonel in the Militia of this State.

You will please to regard the within as a complimentary appointment of a supernumerary Aid-de-camp, which is not to invest you with any actual command on your return from Europe, unless you shall receive from me some further communication or General order to that effect.

General Paulding will make you acquainted with dress and equipment of the General staff of this State.

Col. Henry Brevoort, Junr.

MORE MILITARY RECOMMENDATIONS FROM THE GOVERNOR.

Albany, March 6, 1812.

Sir: Mr. Abraham Sears of the Town of Montgomery in the County of Orange solicits the office of Captain in the Army.

He is a man of exemplary morals, of good character and well qualified for that station. I, therefore, beg leave to recommend him accordingly.

The Honbl. William Eustis.

Albany, March 18, 1812.

D'r Sir: I beg leave to recommend to your notice for an appointment as Captain or Lieutenant in the Army Thomas Darling of the eighth ward. He is a person well qualified for the appointment & is a steady republican.

The Honbl. Samuel L. Mitchill.

Albany, Mar. 20, 1812.

D'r Sir: Mr. Amos Holton, late of Vermont, but now residing in Washington County in this State, is desirous of obtaining the Commission of a Captain in the Army of the United States. I have no personal acquaintance with Mr. Holton, but the testimonials he has produced from the Governor of Vermont, & from the Speaker of the House of Representatives of that State, leave no doubt on my mind of his good character & qualifications. I, therefore, recommend him to your patronage for the above appointment.

The Honbl. S. L. Mitchill.

FOUR THOUSAND STATE VOLUNTEERS TO GO INTO CAMP—GENERAL PAULDING COMPLIMENTED.

Albany, March 21, 1812.

D'r Sir: You have my approbation to arrange the Brigades & Regiments in numbers according to law and announce it in General Orders or by a communication from your Department as you may think best.

The frontier Committee have this day introduced a bill amongst a variety of other things, authorizes me to encamp and discipline for one month—1000 Volunteers of the Militia in the Eastern, 1000 in the Western & 2000 in the Southern District, so as to have an advanced corps acquainted with manoeuvres, discipline and Camp duty & habits, to take the Field immediately in case of Invasion &c. They are to be governed by such Rules & regulations as the Adjutant General shall with the approbation of the Commander in Chief devise & announce. They have also put under my command a guard of Uniform Artillery, of 1 Lt. 1 Seargt. 2 Corporals & 25 privates for the fortifications at the Narrows to be disciplined & regulated by the Orders of the Governor. They have also authorised the appointment of an assistant Commissary for the Western & one for the Northern Department, and the Military Committee has concluded to encamp the officers of Brigades for one week in each year under the command of a Military Instructor to be appointed by the Governor &c. You will have your hands full the ensuing summer. Your assiduity and attention to the voluminous & perplexing Militia Laws & to other matters of your Department this winter receives my unfeigned approbation & thanks.

General Wm. Paulding, Junr.

PATRONAGE IN THE MASTER WARDEN'S OFFICE OF THE PORT OF NEW
YORK.

Albany, March 23, 1812.

D'r Sir: Your letter with respect to T. Williams has been received. By the law passed last Winter the power of appointing Branch Pilots was exclusively vested in the master Wardens

of the Port of New York. The power of removal was also vested in them subject to an appeal to the Governor or in his absence to the Mayor in three days after being served with the proceedings of the Wardens. Mr. Williams did not make an appeal within that time for which reason the removal become confirmed. I was disposed to interfere in his relief, if I possessed jurisdiction after the expiration of the time for appeal, and referred that question to the Attorney General, who reluctantly gave it as his decided opinion, that I had no right to take cognizance of an appeal made after the legal time allowed for an appeal had expired. Neither myself nor the Council, therefore, can yield Mr. Williams any other relief than by superseding the Master & Wardens & appointing others in their stead, which I do not think will be done.

William Sampson, Esqr.

COMPENSATION FOR COLONEL MACOMB—FOUR DOLLARS A DAY AND
EXPENSES.

Albany, March 23, 1812.

D'r Sir: You will see by the enclosed Extract that your compensation is four Dollars per day and the expences of a certain kind therein specified. Mr. Russell and Judge Peck have made out their accounts & received the money.

Mr. Murray, Mr. Russel & yourself will probably charge each the same number of days.

Col. Macomb.

P. S. You have forgotten to send me the list of persons who dined me at the Narrows.

MILITIA POSTED ALONG FRONTIER FORTS.

Albany, Mar 31, 1812.

D'r Sir: I have this day received orders to detach and station at Niagara, Oswego and Black River, 1600 of the Militia, viz 600 at Niagara—400 at Oswego & 600 at Black River; and am referred to you for a supply of the necessary provisions for the Detachments.

As it is my intention to give effect to these orders with promptitude, it will be indispensibly necessary that you should either come up & attend to the business in person, or that some fully authorised agent should be appointed, to whom the Commanding officer may apply for whatever may appertain to your Department. It is true that I am authorised to supply rations upon your omission, but I hope this trouble will not be necessary. Your letter to Judge Tousley went on by the mail of Saturday. Let me see you or hear from you immediately.

Elbert Anderson, Junr Esqr.

THE GOVERNOR PREPARES FOR WAR—TROOPS STATIONED AND EQUIPMENT GATHERED.

Albany, March 31, 1812.

Sir: I have this day been honored with your letter containing instructions to call out Militia for the defence and protection of the Frontiers of this State and shall give it effect with the utmost promptitude. I have concluded under the discretion vested in me by your letter to allot 600 for Niagara 400 for Oswego & 600 for the Black River Country. Perhaps Putnams Ferry or Cape Vincent would be a better position for the latter Detachment than Sackets Harbour.

Permit me to suggest that a small detachment at Ogdensburgh, another at Hamilton & Massena further down the St. Lawrence, and one at French Mills about 8 miles from St. Regis, one on or near the Northern frontier on lake Champlain, and at the mouth of Genessee River, will be indispensable in the event of difficulty with Great Britain.

The contractor is at New York. I have sent an express to request him as well as the Adjutant General & Commissary of this State to come to Albany immediately. The immense quantity of snow in the interior of this State, and the unusual permanency of the ice, will necessarily retard our operations. Upon inquiry I learn that the Military Agent has received no instructions relative to the supply of the camp equipage which will be required for the Detachments. Permit me, therefore, to request information whether the Government intends to have Tents & other Camp equipage prepared for the troops when they assemble at the place of Rendezvous, or whether the places of encampment at Black River & Oswego must be at once located and Huts, Barracks and the other necessities of a Camp be immediately provided there.

I am in hopes of receiving from you Instructions more minute by the mail of this evening. Should I be disappointed I beg leave to request that you will inform me whether the respective detachments are to be under the command of a General of the Regular Troops, or whether I am to organize the whole and assign the General Commandant, and also whether a discretion is to be vested any where as to details, and as to contingent expences which must necessarily occur but which may not be within the purview of any specific regulation of the War Department relative to the expences of regular troops.

The Honbl. Wm. Eustis.

MR. BURNET RECOMMENDED FOR THE ARMY.

Albany, April 1, 1812.

Sir: I must take the liberty of presenting to your notice Moses Dewitt Burnet, a young man of twenty one or twenty two years; whose domestic character is highly exemplary, and whose talents & Education I believe will fully qualify him for a Lieutenancy in the United States service—I therefore without hesitation recommend him for that Commission.

The Honbl. Wm. Eustis.

THE GOVERNOR DISGRUNTLED—POLITICAL ENEMIES APPOINTED TO
OFFICE AND WASHINGTON INSTRUCTIONS IMPERFECT.

Albany, April 3, 1812.

Dear Sir: I have this moment received your letter relative to the application of Mr. Davis for the office of deputy Commissary General. I have already recommended Col. Lamb for that station and cannot, therefore, with propriety recommend any other. Even if I had not, I should be reluctant to hazard any further recommendations, for after such men as Wm. North, P. J. Schuyler Robt. Leroy Livingston &c., are honored with the highest Military distinctions in this State by a Republican Administration, I shall avoid assuming even the appearance or responsibility in the appointments to be made.

I have received an order from Washington to station Militia at Niagara, Oswego and Black River, but for what purpose I am not advised, nor am I informed where they are to get tents & camp equipage, or who is to advance the necessary expences, & according to custom, am neither vested with general discretion or informed as to any of the details. I have called upon the Military Agent here but he has received no intimation of

the order given to me. I shall tomorrow dispatch the necessary orders upon my own responsibility as to funds and everything else. It is true that I am authorized to supply rations if the contractor shall not, but then I am limited to the contract price and am not told what that price is. I dislike such costiveness in Military Instructions.

General Paulding.

THE GOVERNOR DREADS THE ELECTION OF FEDERALIST SENATORS.

Albany, April 4, 1812.

Dear Sir: Your kind letter of the 1 Instant has been duly received. Although I feel perfectly conscious of the propriety & necessity of the responsibility of the step which I have recently taken, and, therefore, shall not be made unhappy by any sacrifice which I may sustain by reason of it, yet I will not disguise that my feelings are alive with respect to public opinion upon the subject and that their approbation or at least the approbation of the virtuous and upright part, will be a cause of great satisfaction to my mind.

I feel sensible of your kindness in forwarding to me the pleasing information contained in your letter and hope you will not deem me obtrusive in soliciting future favours of that kind.

There are two things which weigh upon my mind in relation to the Southern District. The one is the dread which I entertain of having Federal Senators returned at the next election in consequence of the schisms which appear to prevail about the right of nominations; and the other is my anxiety to have the City of New York regain its Republican character & send a Republican representation to the Assembly. The eyes of our friends in every part of the State are directed to New York, and

their universal wish and prayer is that the spirit of discord may be charmed down or be merged in the importance of the present crisis.

Wm. Irving, Esqr.

THE GOVERNOR EXPRESSES HIS GRATITUDE TO THE CITIZENS OF
BALLSTON.

Albany, April 6, 1812.

Gentlemen: You must indulge me in mentioning that I have long since formed a determination should my conduct & character as chief Magistrate become the subject of investigation or of falsehood and detraction in the public prints, never to appear with any refutation or justification there, but to repose myself solely upon official acts. It is of course my respectful request that you will give no further publicity to the enclosed than will be necessary to announce to the worthy Inhabitants of Ballston,* who have honored the late Executive measure with their approbation & support, my profound gratitude.

*At a very numerous and respectable meeting of the Republican inhabitants of the Town of Ballston convened pursuant to public notice at the house of Peter Roe Inn-keeper in said Town on the second instant of which Samuel Cook Esq. was appointed Chairman and Col. David Rogers Secretary the following resolutions reported by a Committee appointed for that purpose were read and unanimously agreed to—

Resolved That the act of his Excellency the Governor in proroguing the Legislature of this state (agreeably to the power vested in him by the Constitution) and thereby arresting the passage of the Bill entitled "An Act to incorporate the bank of America" merits our hearty and decided approbation and furnishes additional evidence that to preserve the purity of Legislation and promote the honor and welfare of the state he will not shrink from his duty however high and responsible to avoid the virulence of his enemies or the persecution of selfish and mercenary speculators.

Resolved That the passing of that bank when in the Journals of the Assembly and Senate it is recorded that attempts have been made to corrupt by bribes five members thereof to vote for said bank would have destroyed all public confidence in Legislation and deeply wounded the character and dignity of the State and imperiously demanded of his Excellency the exercise of the high and important prerogative wherewith by the constitution he is vested.

Resolved That we have for a long time witnessed with pain the decrease of public confidence in the purity of Legislation owing to the very strong and general belief that rewards and emoluments were tendered to and in some instances received by members of the Legislature to vote for the incorporation some years since of a bank in the city of New York and of the late Jersey Bank; added to which the unwarrantable and corrupt means made use of to establish the bank of America call loudly for judicial investigation that public confidence may be restored and the honor and dignity of the state maintained.

Samuel Young, David Rogers, Seth C. Baldwin, Isaac Rice and Samuel Cook, Esquires.

THE GOVERNOR'S PROROGATION OF THE LEGISLATURE—HE IS
DUBIOUS OF REPUBLICAN SUCCESS IN NEW YORK CITY.

Confidential:

Albany, April 6, 1812.

Dear friend: I feel highly gratified at the expression of approbation, which has been made by the Republicans of New York, upon the subject of the prorogation. I am truly sorry, however, that they mingled with it other matters calculated to keep alive the afflicting dissensions amongst the Republican brethren of that City.

Mr. Clinton has been as sincere and decided in his efforts to induce members to vote against the Bank of America as I have & has had more effect. Any information, therefore, connecting him with the advocates of the Bank or calculated to sever him from his sincere friends here are cruel and unjust & wound our feelings.

Resolved That in the opinion of this meeting the banking capital of this state is already increased to an alarming and dangerous degree beyond what is required for commercial purposes and that the incorporation of another bank with a capital of Six millions would be likely to jeopardize all our other banking institutions and involve the State in the ruin and disgrace of a depreciated paper currency.

Resolved That while we have strong reasons to apprehend a war with Great Britain and recollect that money is the sinews of war and when we view by the incorporation of this bank a resuscitation of one half of the capital stock of the late United States bank a great proportion of which is owned by British subjects and that foreign stockholders may be permitted to monopolize the stock and thereby the controul of the intended bank we deem it impolitic and unwise to place a monied institution in the most commercial city in the Union in the hands of our enemies with a capital sufficiently large to break down and destroy all our other monied institutions and to controul the wealth and commerce of the State.

Resolved That the representatives from the County of Saratoga by their firm and decided opposition to the incorporation of the *Six million* bank merit the approbation of their constituents.

Resolved That Samuel Young David Rogers Seth C. Baldwin Isaac Rice and Samuel Cook be a committee to communicate to his Excellency that this meeting perfectly approve of his proroguing the Legislature and that our confidence in him as a patriot politician & faithful executive is eminently increased.

April 2, 1812.

Samuel Cook, chairman.

David Rogers Secy.

I am convinced that persistence in the nomination of Mr. Bingham* will cause Federal Senators to be returned from the Southern District and I am equally convinced that a persistence in departing from the location by the Republican members of the District (a practice which has prevailed & been acquiesced in ever since I have been acquainted with political concerns) is disorganizing and improper. Mr. Bingham ought, therefore, magnanimously to decline & consent to run on the Assembly Ticket. If this be done and a discreet assembly Ticket be nominated, I venture to predict the most salutary consequences, even the return of a Republican representation from New York. I sigh for such an union & such an event, and hope you will exert your best endeavours with Russel, Ward & others with whom you have influence, to effect so desirable an event.

The News of Embargo & other occurrences of the day may prevent our usual success in some of the Northern & Western Counties, which renders a reconciliation & a restoration of the Republican standing & influence of New York doubly to be wished. They may unite now upon cardinal principals without reference to men and perhaps a similar opportunity may not occur till their distraction shall have become past remedy.

Col. Macomb.

P. S. I ventured to write to Col. Rutgers on this subject confidentially.

A DETACHMENT FROM THE MADISON-CORTLAND BRIGADE ORDERED
TO OSWEGO.

Albany, 2 April, 1812.

Sir: You will herewith receive the copy of a requisition by the President of the United States and a General Order† predicated

*The governor's judgment was sound. John Bingham was nominated and was defeated—the Federalists elected the two Senators from the Southern district—Peter W. Radcliff and Elbert H. Jones.—STATE HISTORIAN.

†For general order of date April 2, 1812, see Military Papers of Daniel D. Tompkins, Vol. I, pp. 315-17.

upon that requisition. You will please to have the 250 men from the Madison & Cortlandt Brigades detached & organized as speedily as possible. Their destination is Oswego, where they will be encamped a short time and will then be relieved by Regular Troops.

I hope volunteers will immediately offer to compose the 250. I rely upon your Military ambition & patriotic zeal to have this Detachment in readiness as speedily as possible & to have me advised of it. The expence of needful expresses not exceeding Fifty Dollars, will be paid upon your account & certificate.

Major Genl. King.

P. S. I am just informed by the President, that volunteers under the act of 6 of Feby last, will be preferred, for which purpose I have sent you a copy of the act with the caption for a Volunteer Roll.

GENERAL WIDRIG APPOINTED TO THE COMMAND OF A DIVISION—
HIS DETACHMENT ORDERED TO THE BLACK RIVER.

Albany, 2 April, 1812.

Sir: You will herewith receive your Commission as Major General of the Fifth Division of the Militia of this State & a General Order to detach from that Division and to have in readiness to march at a moment's warning, 600 men including officers. As soon as I am advised they are ready some convenient place of encampment near the mouth of Black River [should be selected]. A copy of the requisition of the President of the United States of the Detachments mentioned in my General Order is annexed thereto.

I rely upon your military experience and talents, and upon your patriotic zeal to have the Detachment made and organized

into Companies as soon as possible & to report to me immediately. Reasonable compensation for needful expences for expresses will be allowed not exceeding one hundred Dollars in the whole. If officers can procure companies of volunteers, you will accept & organize such companies, and assign the officers under whom they may volunteer to command them.

As you may not be acquainted with the limits of the Fifth Division, to the command of which you are now appointed, I take the liberty of apprising you that it consists of the Militia in the counties of Herkimer, Oneida, Onondaga, Lewis, Jefferson and St. Lawrence. That the senior Lt. Colonel in Herkimer—Genl. Collins, of Utica, Genl. John Ellis of Onondaga Hollow, Genl. Walter Martin of Martinsburgh, Lewis County, and Genl. Brown, of Brownville, Jefferson County are the Commandants of Brigades which compose your Division.

Major Genl. Widrig.

P. S. I am just advised by the President to obtain if possible volunteers under the act of Congress of 6th Feby last. For that purpose I enclose you printed copies of that act with the forms for volunteering under it. You will exert yourself to obtain the requisite number of volunteers and will advise me regularly of your proceedings.

GENERAL HALL'S DETACHMENT TO BE ORDERED TO FORT NIAGARA.

Albany, 2 April, 1812.

Sir: You will herewith receive General Orders to detach from your Division of Infantry 600 men including officers to be organized into a Regiment, whereof Philetus Swift will be Lieutenant Col. Commandant. They are to be ready for service as soon as

possible, and will be ultimately destined for the Post at Niagara from which they will be relieved by regular troops. A copy of the requisition by the President of the U. S. is annexed to the order.

I rely upon your Military experience and talents and upon your patriotic zeal to have the above Detachment in readiness for service as speedily as possible. Reasonable compensation for expresses if they shall become necessary not exceeding one hundred Dollars will be allowed and paid by me. If officers can procure companies to volunteer with and under them you will accept the volunteers and assign those officers to command the Company.

Major Genl. Amos Hall.

Volunteers under the act of the 6th Feby will be preferred by the President, for which purpose I send you a printed copy of that act with the form of volunteering subjoined. Please to advise me by every mail of your proceedings, and particularly of the time when the Detachment will be ready to proceed to its station.

DR. TONNELLIER APPLIES FOR AN ARMY SURGEON'S COMMISSION.

Albany, April 4, 1812.

Sir: Dr. John S. Tonnellier, of this City, who studied with Dr. Shinger of this place, & has been two years in practice desires the appointment of Surgeon in the Army.

I am enabled to recommend him to you as a young Gentleman qualified for and worthy of that station.

The Honbl. Wm. Eustis.

SEVERAL OF CONGRESSMAN BLEECKER'S CONSTITUENTS APPLY FOR
COMMISSIONS THROUGH THE GOVERNOR.

Albany, April 6, 1812.

D'r Sir: I have been requested by Mr. Vanderheyden of this place to recommend James P. Livingston for an appointment in the Army. Mr. Vanderheyden informs me that he is the son of Capt'n. Abraham Livingston, who was with General Montgomery at Quebec, & was under General Gates, at the surrender of Burgoyne; and he further represents that the young man is well qualified to become a good officer.

I am not personally acquainted with Mr. Livingston and have no further information respecting him than the above. But as you are probably acquainted with young Mr. Livingston and are intimately so with Mr. Vanderheyden, I take the liberty of forwarding to you the name of Mr. Livingston, with a request that you will present it to the Secretary of War with such representations in his behalf as your knowledge of him together with the preceeding statement may in your opinion justify.

Mr. Chester Root of this City desires an appointment to a subaltern office in the Army. He is a young man about 21 years old of Genteel appearance & is recommended to me by Mr. Townsend & Mr. Thorne, as a moral and well behaved person. He has lived for four years with Dr. Luce who I understand will address you in his behalf. From this description you will probably recollect the young Gentleman and be willing to unite in recommending him to the Secretary of War for Ensign.

I also enclose one other recommendation for your District. The subscribers to the recommendation are the Mayor of Schenectady, the Cashier of the Mohawk Bank, & others in whose

representation I have confidence and therefore beg leave to concur in the recommendation.

Allow me to add that Rensselaer Keating of this City, wishes to be appointed an Ensign. My Neighbour Mr. Thomas Campbell, who is an intelligent & worthy Inhabitant, & with whom Mr. Keating has lived a number of years, says he is a worthy, moral & honest young man, well qualified for a subordinate station in the army.

My reason for troubling you with this business is, that I have understood no recommendation will be noticed except it shall come through the Member of Congress for the District within which the Candidate may reside.

The Honbl. Harmanus Bleecker.

THE GOVERNOR TRANSMITS TWO ADDITIONAL APPLICATIONS.

Albany, April 6, 1812.

D'r Sir: The enclosed recommendation is for a Gentleman residing in the District which you represent. It is signed by the first Republican characters of Herkimer County, in whose representations I have implicit confidence and therefore respectfully request that you will be so kind as to cause Mr. Gray's name to be presented to the President for the appointment of Captain.

The Honbl. Silas Stow.*

THE SON OF A REVOLUTIONARY CHARACTER RECOMMENDED FOR A COMMISSION.

Albany, April 6, 1812.

Dear Sir: I have forwarded to the Secretary of War a recommendation for your son of which I send you a copy. The

*Silas Stow was born in Lewis County, New York; resided at Lowville; elected a representative from New York in the Twelfth Congress as a Democrat, serving from November 4, 1811, to March 3, 1813.

delay of a few days which intervened between the receipt of your letter & the date of the recommendation must be excused on account of the peculiar situation and pressure of public concerns here at that time.

Mr. James W. Lent.*

Albany, April 6, 1812.

Sir: Mr. James W. Lent, Junr., of New York is anxious to obtain an appointment in the Army of Captain or Subaltern. Mr. Lent is a young Gentleman of intelligence and respectability and possessed of suitable qualities for the Army. He is, moreover, the son of a Revolutionary character & a steady Republican and is well attached to the Government of his Country. I, therefore, cheerfully recommended him to your notice.

The Honbl. Wm. Eustis.

PREPARING FOR THE PRESIDENTIAL ELECTION.

THE GOVERNOR URGES HARMONY IN REPUBLICAN RANKS—DEWITT
CLINTON'S ATTITUDE IN THE BANK AFFAIR.

Confidential.

Albany, April 6, 1812.

Honored Sir: I am penetrated with grateful sensations by the unanimous & flattering manner in which the Republicans of New York have been pleased to approve of and sustain my official conduct in proroguing the Legislature. There are two matters, however, relating to that City, which still burthen my mind; one is a fear that dissensions about the right of nominating Senators will cause Federal Senators to be returned for the Southern District at the approaching Election, & the other is an ardent wish that New York may regain her wonted stand-

*James Webber Lent was born in Newtown, L. I., August 24, 1761; served in the Revolution; was inspector of pot and pearl ashes, register of deeds, New York County 1821-1829; died August 4, 1849.

ing & influence in the concerns of the State by sending a Republican representation to the assembly. I feel confident this may be done, if those whose characters & standing justify them in attempting to lead public sentiment, will exert themselves to calm down the spirit of resentment & recrimination, which has too long prevailed there or will endeavour to merge past animosities at a crisis and upon a question which may influence the morality, integrity & purity of public servants for years to come. For, if it be once established that peculation by Public officers in matters upon which they are to decide in a Legislature, [sic] judicial or executive capacity is a matter of indifference with their constituents & will not be frowned upon if it be tolerated, that combinations of out door individuals in desperate circumstances & of slender morality, can for a stipulated sum pre-engage & contract to carry a measure through the Legislature, whatever may be its bearing upon public safety, upon the interest of morality & religion, or upon the permanency of our free Republican Institutions, from that time no upright man will endure to breathe the atmosphere of the Metropolis and the management of public concerns will glide into the hands of profligate & unprincipled speculators. Allow me here to mention, that in relation to fixing upon the Counties in District caucuses of the Republican members, I cautiously & intentionally avoid any interference or advice whatever, and that I never have before or since the determination of the members of the Southern District to give Kings or Richmond, the nominations this year conversed with any of them. This mode of fixing upon the Counties which shall nominate, has prevailed ever since I have been conversant with political life & has always been acquiesced in. The Westchester & Suffolk members cannot be

considered as unfriendly to New York, & we must, therefore, presume that their decision proceeded from a sense that those Counties were justly entitled to the nomination this year. It is moreover demonstrable by the census of Senatorial Electors in the Southern District, that New York at all events was not entitled to the nomination. But it appears to me, delicacy and respect for the Suffolk & Westchester delegation, the peace & safety of the District, and a veneration for an adherence to established modes of deciding the conflicting claims of Counties, until a better method is fixed upon and announced, require that New York and Queens should yield to the decision of the Republican representatives of the district. By rotation and by right, laying Queens, Kings & Richmond out of the question, Suffolk was entitled to the nomination of one of the Senators in preference to New York. My honest opinion, therefore, is that Mr. Bingham ought to exhibit an instance of magnanimity, by resigning & consenting for the public good to run on the Assembly Ticket. Such a proceeding will not only be just and magnanimous, but will take away much of the pretext for discord, and in that event I venture to predict salutary results. It must be recollected that the members to be chosen this spring are to select Electors for President, & surely Mr. Madison's friends ought not to do anything which will hazard the choice of Republican Electors. The opinion of all our best & most tried friends, in the Country & here, is that every sacrifice of individual feeling ought to be made to accomplish the objects I have mentioned above, & they as well as myself sigh for the restoration of harmony amongst our Republican brethren in New York.

Suspicious seem to be entertained in New York that the Lieutenant Governor* has either been friendly to or silent about

*Dewitt Clinton.

the Bank. Rest assured, my Dear Sir, great injustice is done him by such insinuations. He has uniformly been as decided, steady and open in his opposition to the Bank as I have been and has I really believe, interested himself more, & taken greater pains to convince members of the impropriety of voting for it, than I have done. His real friends will, I do not hesitate to say, be equally decided & animated upon the subject now pending if a disposition for union and mutual exertions shall be met by a corresponding temper on the part of the Madisonians. This is the first letter I have even ventured to write to you or any other person respecting the afflicting dissensions in New York; and I trust you will ascribe this departure from my usual studied silence on that subject to an anxious solicitude, if you view the importance of the approaching Election in the same light I do, to animate and draw forth your kind & good offices in producing a reconciliation amongst the Republicans of the City, at least at this election.

The removals which have taken place, arose from the peculiarly distracted state of things there for a year or two past and are regretted by many, but still they ought not to be regarded in such a light or with such resentment as to jeopardize the Republican Character of the State.

Be pleased, dear Sir, to receive an unfeigned tender of my sincere attachment, respect & esteem.

Col. Rutgers.

THE GOVERNOR EXPRESSES HIS GRATITUDE TO THE REPUBLICANS OF
BALLSTON FOR COMPLIMENTARY RESOLUTIONS.

Albany, April 6, 1812.

Gentlemen: I have the honor to acknowledge the receipt of your communication of the 3d Instant covering certain resolutions of the Republican Inhabitants of the town of Ballston.

I beg leave to declare that the Executive act* to which those resolutions have reference, was resorted to under a deep and solemn impression of its importance and necessity. But I freely admit that the satisfaction derived from conscious rectitude is greatly heightened by the spontaneous declaration, of the confidence of a highly respected portions of my fellow citizens in the purity of my motives and of their decided approbation of the measure. I, therefore, entreat you Gentlemen, to present to them an unfeigned avowal of my high sense of their commendation, & to assure them that the most grateful emotions are excited in my breast by their kind expressions of personal respect & attachment, and of confidence in my fidelity and patriotism as a Public Servant.

With an assurance of my respect and esteem, allow me, Gentlemen, to offer unfeigned acknowledgments to you for the very polite and flattering manner in which you were pleased to communicate the Resolutions.

Samuel Young, David Rogers, Seth C. Baldwin, Isaac Rice and Samuel Cooke, Esquires.

THE COLLEGE OF PHYSICIANS AND SURGEONS AND A NOTE.

Albany, April 6, 1812.

Rev'd. & Dear Sir: I have the honour to acknowledge the receipt of your letter of the 28th ulto. I sincerely sympathize with you in the death of a beloved brother whom I ever regarded as one of the most estimable of men.

Dr. Benjamin DeWitt, Vice President of the College of Physicians & Surgeons, to whom I shewed your letter, assured

*Proroguing the legislature.

me just before he left this place, that he had no doubt the College would immediately appropriate money to discharge the note for the payment of which your brother's estate is responsible; and I, therefore, hope you will be spared any further anxiety or trouble in relation to it. It is a mistaken supposition of Dr. Romaine & others that the proceeds of the Lottery of last year, were placed at the disposal or under the control, of the Chancellor of the University. Had they been so, I should have had no hesitation to extinguish with them the Debt at the Manhattan Bank. But the resolution of the Regents authorized their Treasurer to receive the money of the Managers and directed him to pay it over to the College of Physicians & Surgeons. Any official interference of mine was thereby precluded.

Should unforeseen and unexpected obstacles, to the settlement as contemplated and intended by Dr. DeWitt, occur, it will give me great pleasure to testify to you my sincere attachment by contributing my best services to remove them.

The unusual pressure of public business since the receipt of your letter must plead my apology for the delay of this answer.

The Revd. Dr. Samuel Miller.

APPLICATIONS FOR MILITARY COMMISSIONS.

Albany, April 7, 1812.

D'r Sir: I understand that an arrangement has been adopted at Washington which requires all recommendations for the Army to come through the Members of Congress for the District in which the applicant may reside. Under that impression I recommend to your notice Elisha Morrill, Esqr., of New York attorney-at-law. He is a man of intelligence & capacity, &

qualified to fill a Military Station. As you are personally acquainted with him, it is only necessary for me to call your attention to his case.

Isaiah Lennington, late Justice of the Eighth Ward, is also desirous of being appointed a Captain in the Army. He is now a Captain in the Militia & adjutant of a Regiment, and is I believe qualified for a Captaincy. I will thank you to lay his name also before the Secretary of War, with such representation as your acquaintance with Mr. Lennington will enable you to give.

The Honbl. S. L. Mitchill.

Albany, April 7, 1812.

D'r Sir: As I have not the honor to be personally acquainted with Mr. Fitch within whose District some of the Gentlemen mentioned below reside, and as Mr. Livingston of Columbia has I presume returned from Congress, I take the liberty of forwarding to you the names of certain Gentlemen residing in those Counties, with a request that you will be pleased to lay them before the Secretary of War for appointments in the army.

Harry Forbes & John Eddy are recommended to me for substitutes in the army with such assurances as to their qualifications & moral and political character as to leave no doubt in my mind of the propriety of their Appointment.

James Nichols is recommended by Mr. Skinner, with whom you are acquainted so amply as to render it unnecessary for me to add anything in relation to him. Mr. Skinner's letter is enclosed.

Myrtle B. Hitchcocks of Sandy Hill, is recommended to me by Mr. Skinner, Judge Pitcher and others, as a well educated intel-

ligent young man & perfectly qualified for a subordinate station in the Commissary department. He has been introduced to me and appears to be an amiable, sensible man. A lameness in one knee, disqualifies him for a more active situation in the army. He is also a good Republican & I cordially recommend him for the situation he solicits.

Royall Tony, of Canaan Columbia County is well qualified for the appointment of Subaltern in the Army. He has been introduced to me and appears to be a genteel, intelligent young man. He is also highly recommended by Sheriff King, Dr. Tilden, Major Lord, Mr. Patterson and others of our Republican friends of Canaan as sustaining an unblemished moral & political character. I have no hesitation in recommending him cordially for a subaltern station.

Lodowick J. Babcock of the same place is also recommended by the beforenamed Gentlemen for Captain in the Cavalry. I am not personally acquainted with Mr. Babcock nor with his standing in society or character otherwise than by their representation which is also enclosed.

The Honbl. Benjamin Pond.*

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Albany, April 7, 1812.

Sir: Master John Wynkoop, of this City is desirous of becoming a Midshipman in the Navy. He is remarkably intelligent & active for his age, which is about fourteen years. I am well acquainted with him and can venture warmly to recommend him to your notice for a Midshipman.

The Honbl. Paul Hamilton.

* Benjamin Pond was a native of the State of Massachusetts born 1768; received a public school education; was a member of Assembly from Essex County 1808-1810, and Judge of the Court of Common Pleas 1805-1814; was elected a representative from New York in the Twelfth Congress as a Democrat, without opposition, serving from November 4, 1811, to March 3, 1813; was again elected to the Fourteenth Congress, but died before taking his seat, at Schroon, New York, October 6, 1814, from fever contracted while serving as a volunteer at the Battle of Plattsburgh.

JUDGE BREESE APPARENTLY AGGRIEVED.

Albany, April 7, 1812.

Dear Sir: Your letter relative to Mr. Ostrom was received after the Council had dispersed and will be laid before them in May. Your letter covering the Communication of Charles L. Usher, Esqr. and the affidavits of Mr. Morgan & his wife, was received by me in the Council room of the Capitol, whilst the Senate were in Committee of the whole for the last time on the Bank bill. Supposing I might be justly censured if I withheld the papers enclosed in your letter, I sent for Genl. Root & gave him the papers as I received them, including your envelope. I am informed by persons who were present that your letter was not read in the Senate but was, together with the other papers, returned to me in about an hour.

The above is the only publicity I gave to your letter. I did not then nor can I now conceive that an Envelope, merely mentioning that you forwarded the enclosed papers to me in compliance with the urgent solicitation of the deputy Sheriff of Madison County without any comment by you, could or in any possible respect, effect you injuriously either as a Gentleman, a Citizen or a Public Officer. If, however, my having handed to General Root your letter with the papers enclosed in it, has been contrary to your expectation or wishes I shall extremely regret it; for there are few Gentlemen whose feelings & sensibility are more respected by me than yours or to whose mortification or injury I would be more unwilling to contribute.

Arthur Breese, Esqr.*

*Arthur Breese had settled at Whitesboro in 1794 and was partner of Jonas Platt in law business; Surrogate of Oneida County from 1798 to 1808 in which year he removed to Utica to take the position of Supreme Court clerk. On the death of the first president of the Ontario Branch Bank he held that office for a time; he left numerous descendants.

MR. KELLOGG APPLIES FOR A SUBALTERN'S COMMISSION.

Albany, April 7, 1812.

Sir: Mr. John C. Kellogg of Walton, Delaware County is recommended to me by Judge North & Mr. Clark, my former private Secretary, who now resides at Walton, for a Captaincy or a subaltern station in the army. As you are acquainted with Judge North, I send you his letter to me upon the subject, and also the application of Mr. Kellogg himself. I hope you will be of opinion that these Credentials will justify in laying his name before the Secretary of War & in recommending his appointment. I understand that recommendations from this State are required to come through the Members of the District to which the Candidate belongs, which is my reason for venturing to trouble you with the enclosed.

The Honbl. Arunah Metcalf.*

THE GOVERNOR INFORMS HIS FORMER PRIVATE SECRETARY THAT HE HAS FORWARDED MR. KELLOGG'S APPLICATION TO WASHINGTON.

Albany, 8 April, 1812.

D'r Sir: Your letter, together with the application of Mr. Kellogg & the recommendation of Judge North have duly come to hand, & I have transmitted to Washington the name of Mr. Kellogg with a recommendation for the appointment of Captain.

It gives me pleasure to hear of your prosperity in business and respectable standing where you live. I shall always rejoice at your success and advancement.

*Arunah Metcalf was born in New York; received a public-school education; resided at Otsego; was elected a representative from New York in the Twelfth Congress as a Democrat, receiving 877 majority, serving from November 4, 1811, to March 3, 1813; was a member of Assembly in 1814-1816 and in 1823.

Genl. Root informed me that he contemplated putting you in the General Staff with the rank of Captain; & until I learn whether you prefer going there or taking the Command of a Company the organization of the Company to which you refer, will be suspended. I also think both he & Mr. Ogden thought it would be proper to appoint you a Justice. Let me hear from you upon those subjects as soon as possible.

My family are all in good health.

Aaron Clark, Esqr.

MR. GIDDONS A CANDIDATE FOR OFFICE.

Albany, 8 April, 1812.

D'r Sir: The within was enclosed to me by Col. Haight the day after the prorogation of the Legislature. As you probably know the Candidate Mr. Giddons, & certainly are well acquainted with the respectable Gentlemen who have subscribed his credentials, it is needless for me to say more, than that I have full confidence in their recommendation.

The Honbl. Thomas B. Cook.

IN REGARD TO CONVERTING CAVALRY INTO HORSE ARTILLERY.

Albany, 9 April, 1812.

Sir: Your letter of the 28th March was duly received. I have no objection to organize the Company of Cavalry to which you refer into a Company of Horse Artillery, provided the requisite number will engage to equip themselves immediately. The uniform must correspond in every respect with that of Captain Asa B. Sizer's company of the town of Madison. Should Captain Jennings think proper to send me a line requesting it,

a General Order* for the organization of a Company of Horse Artillery will immediately issue. He must forward the names of all the officers.

Joseph Bruce, Esqr.

“THE SITUATION IN ENGLAND IN 1811.”

Albany, 9 April, 1812.

Dear Sir: I have had the pleasure to receive “The Situation of England in 1811” which you were so obliging as to send to me.

With an assurance of my sincere respect and esteem I beg you to receive an acknowledgment of my high sense of your politeness.

John Rodman, Esqr.

TWO MORE MILITARY APPLICATIONS.

Albany, 9 April, 1812.

D'r Sir: Mr. Hugh Robinson, of this City, youngest son of Mr. John Robinson, is desirous of obtaining an appointment as subaltern officer in the Army. He is now a Lieutenant in the Albany Regiment and conducts himself in a becoming manner in that station, & studies law with Mr. Henry. I have no doubt he will make an active & good officer and therefore beg leave to request that you will lay his name before the War Department with such favourable representation as you may please to make in his behalf.

The Honbl. Harmanus Bleecker.

*For G. O. April 30, 1812, organizing this Company. See Military Papers of Daniel D. Tompkins, Vol. I, pp. 324, 325.

Albany, April 9, 1812.

D'r Sir: Mr. John S. Henry has desired me to present the name of his son George B. Henry, for a subaltern appointment in the army. I am not personally acquainted with the young man, but am informed recommendations from those acquainted with him in New York have gone on to Washington. Should you upon perusing them be satisfied of his morality and good character, you will greatly oblige the old Gentleman by aiding his son in procuring the desired appointment.

The Honbl. Samuel L. Mitchill.

IN REGARD TO THE NEW YORK ARTILLERY.

Albany, April 9, 1812.

Dear Sir: The enclosed return from General Morton arrived after the Council had dispersed. As the Artillery may contribute most essentially to the defence of New York, and ought, therefore, to be fostered at the present juncture, I send the return to you with authority to issue a General Order brevetting the officers named therein, provided General Morton or Col. Sitcher shall desire it, and I have notified Col. Sitcher, thereof.

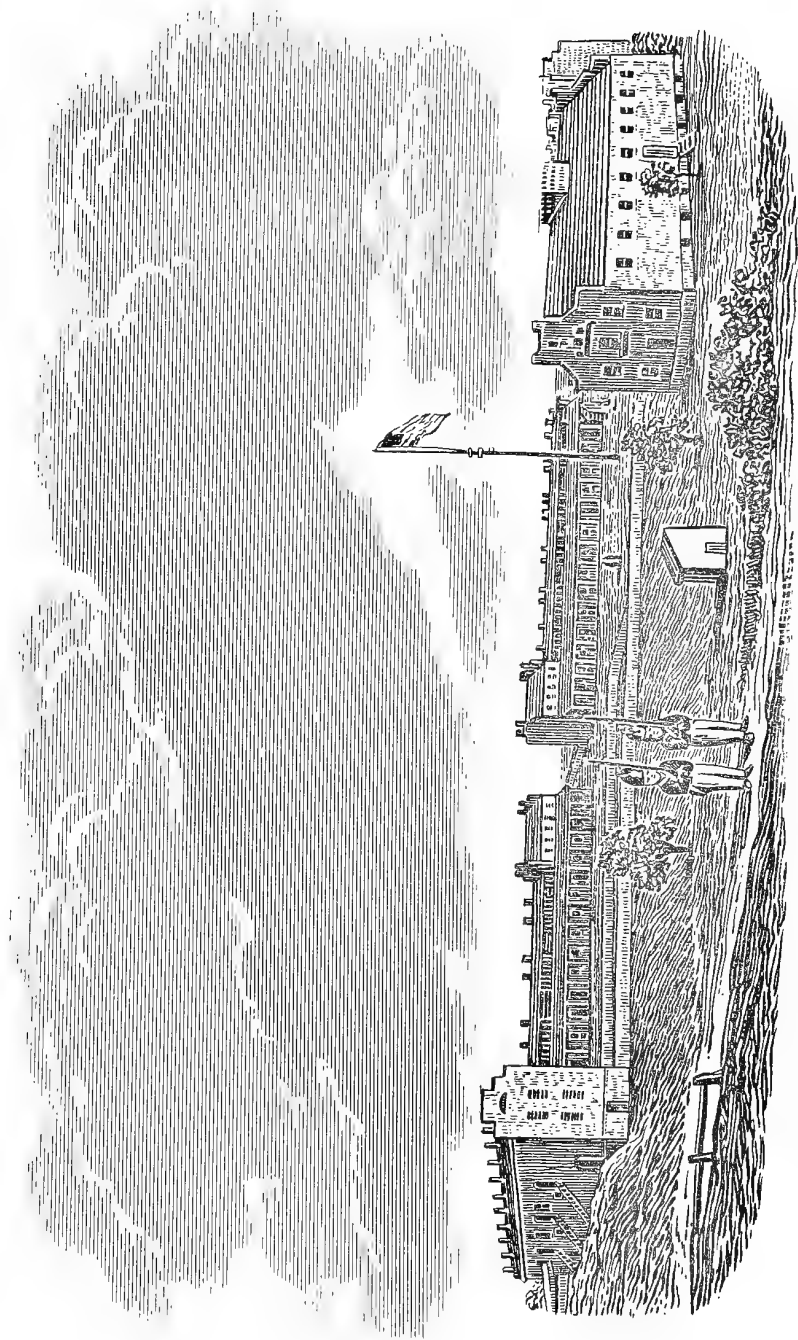
General Paulding.

P. S. You must hold yourself in readiness to change Residences with me for a short time. It may become necessary next week. I will, however, notify you beforehand.

THE GOVERNOR CALLS COMMISSARY M'LEAN'S ATTENTION TO THE
IMPORTANCE OF THE WORKS AT THE NARROWS.

Albany, April 9, 1812.

Dear Sir: I have this day received your letter dated the third day of April with the vouchers. I sincerely sympathize with



MADISON BARRACKS.

you and your worthy family in their afflicting loss by the death of Mrs. Ross.

I have enclosed a check on the Mechanics Bank for two thousand six hundred & thirteen Dollars and seventy two cents, being the amount of the Account you sent me.

I will thank you to be active & attentive to the supply of the Magazine at the Narrows & the works there with everything needful for action. I shall probably be down within a fortnight and may have occasion to call your services to another part of the State; but of that I will advise you seasonably.

John McLean, Esqr.

THE GOVERNOR'S WARM INDORSEMENT FOR ISAAC KEELER, A
REVOLUTIONARY SOLDIER.

Albany, April 11, 1812.

Sir: Isaac Keeler, Esqr., of New York, informs me of his intention to visit Washington in hopes of procuring an office or employ under the War Department. He is advised that there will be a vacancy in the office of Superintendent of Military Stores at West Point, which he would be glad to obtain.

Mr. Keeler is about Fifty eight years old, but is remarkably healthy and active and is attached to the present Administration of the Government. He entered the Army as a private at the commencement of our revolutionary struggle, was concerned in several engagements & was advanced in consequence of merit to the several grades of Ensign, second Lieutenant, first Lieut. & Captain; which last station he held when discharged from West Point at the termination of the War. After the Revolution he resided ten years in Saratoga County from whence he removed to New York where he resided ever since.

He has there performed the duties of Ward Justice and Collector, under the Corporation for sundry objects, & he is now a member of the New York Veteran Corps composed of Revolutionary exempts commanded by Commy. Maclean. Mr. Keeler is now out of employ & has a family to support, for which reason he contemplates the beforementioned application, and he is a sober, industrious, honest & capable man. I hope he will obtain your favourable notice & support.

The Honbl. Wm. Eustis.

TO JOHN MAHON IN REGARD TO REPRESENTATION IN CONGRESS UNDER
THE NEW CENSUS.

Albany, April 13, 1812.

Sir: My opinion upon the subject submitted by your letter of the 7th is that the last law of the United States being predicated upon a new census & having established a new ratio & apportionment is paramount to and annul the operation of our State law, predicated upon the former ratio and number of Representatives; and that, therefore, the only legal election of members for the next Congress,* will one to be held, hereafter in pursuance of a future law of this State, adapted to the ratio & number of Representatives prescribed by the late act of Congress upon that subject. This opinion must not be considered official as it does not appertain to the Executive to decide it, but is merely my individual view of the question.

The Election of members under the present law & according to the existing Districts can do no harm, although my belief is that such Election will be superseded by an Election of 27 Mem-

* Under the Act of March 8, 1808, New York was entitled to fifteen representatives in Congress; the Act of June 12, 1812, increased the number to twenty-one Representatives—STATE HISTORIAN.

bers, pursuant to the recent law of Congress. No public inconvenience can be experienced by a delay of the Election; the members for the next Congress cannot take their seats until the 4th March 1813 and probably will not according to custom until Nov. or Decemr. 1813. On the contrary, the public feeling and sentiment of that time will be more likely to be felt & represented by members chosen next fall or the ensuing Spring, than by members chosen such a great length of time before the session.

John Mahon, Esqr.

THE GOVERNOR URGES HARMONY AND CONCILIATION—OTHERWISE
DEFEAT FOR THE REPUBLICANS, HE SAYS.

Albany, 13 April, 1812.

D'r Sir: Great anxiety prevails amongst the Republicans of all discriptions here & in the neighbouring Counties about the result of the ensuing Election in the Southern District, altho they are not without hopes that the Republicans of that District will see the propriety of uniting their exertions to prevent the success of their political opponents. Ever since my acquaintance with political concerns, the mode of designating the Counties which should nominate Candidates for the Senate to fill the vacancies in the District, has been for the Republican Representatives from the District to assemble and decide which Counties should nominate, & thereupon the Republicans of those Counties met & respectively nominated their Candidates. This system has hitherto operated well & has never to my knowledge been disputed or departed from. I observe, therefore, with regret that a nomination in New York is persisted in, notwithstanding the Representatives from the District have in the usual manner

awarded the right of nomination to Kings & Richmond Counties. If this departure from established usages & principles be adhered to until the Election, there is no difficulty in foreseeing that the Election of Federal Senators will inevitably be the consequence. I am now and always have been, an advocate for adhering to regular nominations, and as no other method than the one pursued this year for designating the Counties which should nominate to fill vacancies has ever been pursued or even proposed, it follows that the nomination made in Kings & Richmond ought to be considered the regular nomination for the Southern District. The representatives who made the designation are amongst the most upright and worthy men of that District and I cherish a strong hope that local claims & jealousies will ultimately yield to the paramount considerations of custom & principle. As to an union in support of the Assembly ticket for New York, it could not fail to produce an auspicious result and is, therefore, devoutly to be wished. You have, heretofore, been made acquainted with my impressions on that subject & I shall, therefore, forbear to mention them again, but will remark, that personal attachments & resentments ought always to be sacrificed to the public good & that a dispassionate & conciliatory course cannot fail to terminate in the Return of a Republican Assembly ticket.

Silvanus Miller Esqr.

GOVERNOR TOMPKINS TO FREDERICK RHODE IN REGARD TO THE
ONONDAGA SALT SPRINGS WITH MR. RHODE'S LETTER.

Albany, 14 April 1812.

Sir: I have the honor to acknowledge the receipt of your letter of the 30th of March, and as I am under the necessity of

leaving this place for the City of New York immediately, I seize a moment to observe that the subject to which it relates is one of great importance and the ideas and improvements you suggest are worthy of great consideration, particularly those which relate to the management & preservation of the Forests & Woods in the vicinity of the Salt establishment. I shall avail the Legislature of your suggestions at their next meeting, by submitting your Communication to the Committee on the subject of the Salt Springs; and although not honored with your acquaintance, I beg leave to invite further communications from you upon that or any other subject connected with the welfare & prosperity of the State.

Frederick Rhode,* Rotterdam, Oneida Lake.

* Most respected Sir:

Your Excellency will kindly pardon me while I presume to address your Excellency on a subject of the first importance (as I conceive) to the interest of this State viz the salt manufacturing establishment in the country of Onondaga.

Having been well acquainted with the salt manufacturing business in Europe May I take the liberty to submit to your Excellency some ideas on the subject which have obtruded themselves in consequence of the method in which these works are at present conducted?

The villages formed by these factories are at present extremely unhealthy. The Springs are partly in a state of nature some of them encompassed but not sufficiently and some more resembling water holes than regular springs. The buildings mostly miserable huts so situated as to be subject to the fogs from the marsh and the inclemency of the weather &c.

In consequence of these and other circumstances with which I will not trouble your Excellency it—forcibly impressed me that a reform and improvement might be made in the following particulars viz.

First the Salt Springs. 2d. the mode of boiling or—evaporating the salt water. 3d. the machinery for raising & supplying the works with salt water. 4. the management of the forests or woods.

The first object is the improving the springs—This might be done by digging them to such a depth as circumstances and the strata of the ground may require and permit and encompassing them in such manner that no wild or fresh water or water derived from snow or rain can have access.

At present the salt water of these springs is adulterated and weakened by every species of filth and frequent overflows of other waters. Could this be prevented and the water obtained in its proper purity much time labor and fuel would be saved and more and cleaner salt be produced.

This is no doubt a difficult matter yet not insurmountable nor as I conceive extremely expensive. I could quote many—instances of salt springs in Germany and elsewhere which have been dug to the depth of many hundred feet which have uniformly obtained water more strongly impregnated than that which was obtained near the surface from a natural spring.

The improvement I would beg leave to suggest on the second particular are pans forming a large evaporating surface instead of the potash kettles now in use. These are least subject to cracking and may be so enhearted as to require much less fuel.

Under the present practice a number of kettles are placed on a block or hearth in such a manner as to be surrounded with mud and enveloped in smoke and steam from the midst of which the operator is often under the necessity (reeking with sweat) to mount a scaffold many feet high in open air to work a hand pump for the purpose of refilling his kettles. To obviate this suffer me to recommend *save* reservoirs to be supplied by appropriate machinery and attached to each manufacturing house.

This naturally introduces the 3d. particular in question viz the machinery for elevating water. This is an object of great magnitude and of the utmost importance to the well being of these establishments. It is hardly possible for any person of observation to view these works without seeing immediately the necessity of erecting engines of sufficient power to raise water for their general consumption much time must be wasted many lives exposed and much general inconvenience attend the present modes of procuring a supply—To remedy this several small streams & perhaps a larger one at some distance might possibly be so concentrated and lead as to drive wheels & move the machineries required for the works now in operation and a good many more. Wind-mills might be resorted to but being uncertain in their operations they ought not to be used unless in cases of the last necessity—Horse engines are (I speak of European establishments as to them) far preferable to hand pumps but rather to expensive.

4th. Better and more economical regulations respecting the forests or woods is still more necessary than all the former; inasmuch as well all the inconveniences attending them salt can be *made* but if the forests are wasted the establishment must fall. The present and perhaps any laws that can be enacted are inadequate to save the forests; a part of a forest is cut down by permission after which the prevailing idea is that the thing then wants no more looking after—this I apprehend is a mistaken idea. The future growth of that same lot is of lasting and serious importance. But at present (it seems to me) is little chance of a second growth. Cattle are roaming at large which for years keep down the young growth and even the few trees which survive this cropping are and remain unthrifty and stunted. Add to this if any place is chopped which so unfrequently as to elude the injury from cattle it is peculiarly exposed to depredations from coopers for the purpose of procuring hoops &c. To remedy this permit me to ask if one or few trusty foresters with salaries large enough to compensate them would not usefully and even necessarily employed? Fencing such land is sufficient for a farmer but here where the body politic is the proprietor it perhaps would be little security.

There is even now much complaint of scarcity of fuel and under the present regimen and these complaints and scarcity probably will fast increase.

Finally an observation respecting the great waste of Salt Water! Can no means be fallen on to save and put to use a treasure so valuable? Would not powerful engines to raise water induce the community or individual capitalists to convey the surplus to neighbouring uncultivated land remote from the springs there to be manufactured? This from the infancy of this country may appear chimerical but authentic history informs us that there is and exists a salt work at Pheichenhall in Bavaria where was constructed 320 years ago an aqueduct for the supply of another work at Frauenstein 3 German or 15 Engl. miles distant. This water is conveyed $1\frac{1}{2}$ m. in leaden pipes 12 fathoms deep under ground and from thence in an open channel. Another instance of this kind is to be found at halle in Tyrol—where the water is also conveyed $1\frac{1}{2}$ Germ. or 9 Engl. miles long.

It might be also worthy of observation whether gradations by the sun or frost might not be useful.

If your Excellency should deem it proper to pay any attention to the foregoing observations and ideas or think it conducive to the public interest to make any examination into the matter I should pledge myself to make such calculation which will prove that my ideas are not chimeras but founded on experience and facts.

Your Excellency will pardon me while I premise that I deemed it a duty to point out some of the imperfections attending an establishment of such public utility and necessity. And although the laws of the state may sanction the present mode of conduct I do firmly believe that even a gradual if not a radical reform would greatly conduce to the states best interests as well as to that of individuals.

With the greatest respect I have the honor to be Your Excellency's most obedient humble servant.

Frederick Rohde

Rotterdam, Oneida Lake, March the 30th, 1812.

BRIGADE AND DIVISION RETURNS.

Albany, 14 April, 1812.

Sir: As the law as well as the General Orders of 9th of July last,* required the respective Brigades to make inspection Returns to the Major General who is to incorporate them into a Division Return, I presume your predecessor Genl. Myers, would upon application have furnished you with copies of the returns of this year from Martin's & Brown's Brigade.

The Adjutant General makes his annual return by Divisions, & of course it does not furnish the number in each Brigade, and as Brown's Brigade was set off from Martin's last year I cannot furnish the information you desire.

It appears by a former annual Return by Brigades, that Genl. Martin's Brigade contained 2304 non commissioned officers & privates, and the two Brigades may now be calculated at about 3000 of which about 1750 are in Martin's & about 1250 in Brown's Brigade and I think you may with propriety at once act upon that number & proportion.

I beg leave to remark as the volunteers under the act I sent you, are to have the price of a suit of cloathing for the Army, pay, rations and a complete sett of equipments if they serve one month, it appears to me young men will be anxious when they know those advantages, will chearfully volunteer; the pay will be \$5 the price of a suit of clothing about \$17.50 & a Musket & equipments about \$17.50 now making \$40 if they should happen to serve but one month. I beg your exertions to obtain volunteers for the Detachment if possible.

Genl. Widrig.

*See Military Papers of Daniel D. Tompkins, Vol. I, pp. 289-293.

TWO MORE APPLICATIONS FOR MILITARY DISTINCTION.

Albany, 15 April, 1812.

Sir: Mr. Charles Cotton, of Ulster County, is recommended to me by Captain Whiley late of the army as a young Gentleman of respectable connexions in the neighbourhood of his residence and of good character whose wishes are to obtain a Commission in the Army Captain Whiley is anxious to gratify.

I have not been acquainted with Mr. Cotton have the utmost confidence in the representations of Captain Whiley and therefore respectfully recommend Mr. Cotton to your notice and patronage for a subaltern appointment in the Army.

The Honbl. William Eustis.

Albany, 15 April, 1812.

Sir: Mr. Benjamin H. Moores, of Plattsburgh in Clinton County, wishes to enter the Army as Lieutenant. He is the son of Major General Moores [Mooers] of that place who was an officer during the Revolutionary War and is one of the most respectable Inhabitants in that quarter.

I am well acquainted with young Mr. Moores & recommend him both upon my own knowledge and upon the assurance of Mr. Saily & others of Plattsburgh, as an intelligent, industrious, temperate & moral young man highly respected by his neighbours & acquaintances. I am well assured that he could enlist a company at Plattsburgh in a few days were he authorized so to do.

Should there be any vacancy in the old corps or should the appointments for the new be incomplete, I entertain a hope that he will obtain the appointment of Lieutenant for which I do most confidently & cordially recommend him.

The Honbl. Wm. Eustis.

MR. ANDERSON RECEIVES THE COMMISSARY CONTRACT.

Albany, 17 Ap. 1812.

Gen Wildrig:

Sir: Mr. Elbert Anderson, Junr., is authorised & empowered by the Secretary at War, to supply the most part of the State of New York and all New Jersey with the necessary provisions; for the U. States Troops stationed therein, he is now on his route to the North & West for the purpose of discharging the duty of his Commission; therefore, any contract made with this Gentleman for the supply of the Posts at Oswego & Black River, may be considered binding & efficient.

I am, Sir, with sentiments of respect Your Obt. St.

John McLean, Junr. Priv. Sec. of the Governor.

A copy of the above was sent to Col. Fleming.

THE GOVERNOR'S INSTRUCTIONS TO HIS QUARTERMASTER-GENERAL,
PETER B. PORTER, IN REGARD TO THE CAMPS ALONG THE
FRONTIER.

New York, April 18, 1812.

Sir: By the communication from the War Department, a copy whereof is annexed marked "A," I am authorised to provide supplies of Camp equipage and other Qu'r Master's Stores & to cause the necessary arrangements to be made for supplying marching & quartering the Troops, recently ordered into service on the Northern Frontier of this State. The Detachments to which that communication has reference, are those referred to in General Orders, a copy of which is hereunto annexed marked (B). Col. Philetus Swift of Phelps, Ontario

County is assigned to command the most Westerly Detachment and is now in service. Lt. Col. George Fleming, of Aurelius, Cayuga County is assigned to command the Detachment at Oswego & is also in service.

The Field officers to command the Detachment destined for the Black River are not yet assigned.

Under the authority vested in me by the President, you are hereby authorised & requested to take upon yourself as Quarter Master General of this State, the duty of making arrangements to supply the said Detachments with all that may be needful to facilitate their march, and the transportation of their baggage &c to their respective Stations & for their accommodation at those stations. If suitable Barracks or other places of accommodation for the Detachments for Oswego & the Black River cannot be immediately obtained you will cause the necessary huts or Barracks to be erected immediately, & the requisite Camp articles & impliments to be provided. At Oswego, the Public ground may be the most eligible place for an encampment. At Black River or near it, there is no public ground. I would, therefore, advise the purchase of about twenty acres for that purpose, in some healthy & proper spot provided you shall find it necessary to go to the expence of building huts or Barracks there. But should tents be seasonably supplied by the U. States for that Detachment then you may hire the requisite ground for the site of an encampment.

You are at liberty to require one regimental Quarter Master for each Detachment to enter into service immediately & to employ & direct the Regimental Quarter Masters in relation to the arrangements for their respective detachments.

Major Darby Noon, of Albany, has already been engaged to assist in the Quarter Master's Department and will act under your superintendence and orders accordingly.

With respect to funds, the sum of \$2500 is herewith remitted to you. Any further sums which may be wanted will be placed to your credit in the State Bank at Albany, or your draughts on me, therefore, at five days sight will be duly accepted & paid.

Elbert Anderson, Junr., the contractor for this District is now at Albany, or to the Northward, & will supply rations. If he shall omit so to do, you or the officers whom you may authorize for that purpose, will cause it to be done.

Your brother, being the contractor for the Niagara District, you will find no difficulty in making the necessary arrangements for the supply of Rations for the most westerly Detachment.

For the monies expended, duplicate vouchers must be taken, & the receipts must express the sum in writing, & not in figures, and as the accounts of the Quarter Master's Department will be rendered & settled in your name at the War office, it will be well that the receipts to be taken by all subordinate agents should be in the name of "Peter B. Porter, Esqr. Quarter Master General of the State of New York." You may require the Regimental Quarter Masters & other agents under you, to give security for the faithful expenditure of the monies advanced by you to them. It is also proper to apprise you, that your accounts & vouchers will be such as that they can be rendered separately under the Distinct heads of appropriation.

About one half of the Detachment for Niagara may remain at Buffalo or Black Rock, & be accomodated there until further orders.

It will be expected, that I be advised of your proceedings regularly, & that I also be made acquainted with the best & most expeditious mode of communicating with you & the Commandants of the respective Detachments.

Peter B. Porter, Esquire, Quarter Master General of the State of New York.

JOHN CAMPBELL OF NEW YORK AND MAJOR FRANCIS M'CLURE SEEK
ARMY COMMISSIONS.

New York, 21 April, 1812.

Sir: Mr. John Campbell, of this city, whose former credentials are before you, is solicitous to succeed in his application to the War Department for a situation in the Army. Mr. Campbell's father was formerly my Instructor & particular friend, & I am satisfactorily assured, that his son is a well educated, moral & worthy young man, &, therefore, cordially unite in soliciting the success of his application.

The Honbl. William Eustis.

New York, April 21, 1812.

Sir: Major Francis McClure, who commands the Battalion of Greens in this City, wishes an appointment as Field officer in the Army. I have, heretofore, had the honor of recommending Major McClure to the Members of Congress from this City—is a firm and decided Republican, & I entertain no doubt would distinguish himself for valour and patriotism, were he enrolled amongst the officers of the army.

The Honbl. Wm. Eustis.

MR. JOHN ROGERS' DESIRE TO VISIT EUROPE IN A GOVERNMENT
VESSEL.

New York, April 21, 1812.

Sir: Mr. John Rogers, of this City, proposes to visit Washington with a hope of obtaining a passage to Europe in a National Vessel and has desired me to address a line to you in his favour. I pray you to pardon the liberty I take in complying with his request and in saying at the same time, that he is a young Gentleman of good character & standing and of highly respectable connexions.

The Honbl. James Monroe.

THE GOVERNOR PUSHES MAJOR NOON FORWARD FOR A LINE
COMMAND.

Albany, April 21, 1812.

Dear Sir: The Detachment at Oswego is to consist of Four hundred men. I have assigned one Field Officer, (Lt. Col. Fleming) to Command it. He will probably require a Major under him, & should none have been designated or selected by Mr. Fleming, I should advise him to accept Major Noon's services in the line of that Detachment under him, and Major Noon may then continue the performance of the duties in the line of that Detachment with the duties of the Quarter Masters Department. He is an officer of merit in the corps to which he is attached and will doubt not be as active & useful a Field officer as Col. Fleming can select.

I will thank you to endeavour to place the Major in the line of that Detachment or of the one at Sackets harbour if it should be agreeable to the General officers. Genl. Widrig, whose aid

Mr. Myers, lives at Herkimer, will perhaps be willing to recommend but one Lt. Col. and one Major for the Detachment at Sackets harbour, and will agree that Major Noon take the command of one of the battalions on the arrival of the Troops at the place of encampment. In the mean time he might be preparing there for their reception under your Instructions.

Genl. Peter B. Porter.

MR. TUBELE AN APPLICANT FOR MILITARY HONORS.

New York, April 21, 1812.

Sir: I understand that Mr. John Tubele, now of Philadelphia, but formerly of this City, has applied for an appointment in the Army. His Uncle, Major Bogart, of this City, informs me he is a moral intelligent & worthy young man with military qualities. Mr. Bogart being himself a person whom I highly esteem and being also one of the best Militia officers in this part of the State, his representations both as to the character & Military turn of Mr. Tubele are entitled to the highest confidence.

I therefore cheerfully concur in recommending Mr. Tubele for the Army.

The Honbl. Wm. Eustis.

THE GOVERNOR COMPLIMENTS CAPTAIN MAHER AND THE REPUBLICAN
GREENS FOR VOLUNTEERING.

Albany, April 21, 1812.

Sir: I have received the letter which you did me the honor of addressing to me, tendering the services of the Republican Green Rifle Company, to the United States, and I have forwarded the same to the President.

I cannot omit expressing the satisfaction I feel, at this patriotic offer. In a moment of difficulty and alarm like the present, such conduct reflects double honor on the Company under your command.

As soon as I shall have received the President's answer to my letter, I will do myself the honor of transmitting it to you.

I beg you, Sir, to present my respects to the members of the Republican Green Rifle Company and to accept for yourself the assurance of my high esteem.

Captn. James Maher.

CAPTAIN MAHER'S TENDER FORWARDED TO THE SECRETARY OF WAR.

New York, April 21, 1812.

Sir: I have the honor to enclose to you a letter from James Maher, Captain of the Republican Green Rifle Company at Albany, tendering the services of the officers non commissioned officers and privates of that company, to the President of the United States pursuant to the act of Congress passed the 6th day of February last; which offer I pray you to lay before the President for his acceptance.

The Honbl. William Eustis.

MAJOR NOON NOTIFIED OF HIS NEW HONORS.

New York, April 21, 1812.

Sir: I will thank you to consider yourself in service of the United States with the rank and pay of a Brigade Quarter Master from the time of your arrival in Albany, until you shall receive orders of discharge.

Brigadier Genl. Porter, Quarter Master Genl. of this State, will give the requisite information & instructions relative to the duties in the Quarter Master's Department, which will be assigned to you, and you will please to obey and respect his orders accordingly. You are also authorized to accept the command of Major in the line of either of the Detachments, should the same be offered & be agreeable to you.

Major Darbey Noon.

LIEUTENANT-COLONEL LAIGHT'S INDORSEMENT, INDORSED BY THE
GOVERNOR.

New York, Ap 24, 1812.

Sir: Lt. Col. Laight who subscribes the enclosed letter, is one of the most intelligent, worthy & correct officers of the New York Militia. His recommendation of Mr. Clark is so full and ample that, although I have no personal acquaintance with Mr. Clark I cannot hesitate to unite in recommending him as a person well qualified for the office of Captain in the Army.

The Honbl. William Eustis.

ORDNANCE SUPPLIES AND FOUR GUN CARRIAGES FOR THE WORKS AT
THE NARROWS.

New York, April 25, 1812.

D'r Sir: You will please to supply the State works at the Narrows with ball, cartridges, ammunition, handspikes and other articles requisite for action, and cause to be made with the utmost expedition four Gun Carriages to move upon a pivot like the one constructed by Captain Horn, with such alterations,

however, as your trials of that carriage and your own experience may suggest.

Upon my arrival in Albany I shall furnish you with more extensive and detailed instructions.

John McLean, Esqr.

A SUGGESTION OF REAL ESTATE VALUES IN NEW YORK IN 1812.

New York, April 25, 1812.

Sir: The propositions which I have received from Messrs. Gardner's are mentioned below. The wharf extends about two hundred and ten feet southerly from Water Street & the water right extends from thence, to the permanent line about 140 feet more, making in the whole length about 340 feet. The width of the whole wharf is about three hundred and fifty feet, and the width of that part of the wharf which lies eastwardly of Hunt's buildings is about 170 feet. For the title in fee of the whole they ask 150,000 Dollars, For the title of the 170 feet wide they ask \$72,850. For a lease of 14 or 21 years, of the whole, they ask 2000 Dollars per year & for a lease of the 170 feet in width for the same periods \$970 per year.

I would remark that the proprietors of the above mentioned grounds are extremely unwilling to part with the fee of it, and that it is very probable from the tenor of their conversation, that should the Government be willing to take a lease the term would be lengthened or the annual rent above mentioned be reduced.

For the Eight Lots of Mr. Astor on the North River, with the appurtenant right to the thirty feet of Street along side, which is already fitted & for the Store house erected on the Wharf, he

requires \$10,000. I consider his offer to be no more than a very reasonable price for the property.

The sum for which the Gardner's propose to sell their property, is in my opinion double, the sum which it is worth. Their proposition for lease is not very extravagant.

Col. Jonathan Williams.

MR. JOHN JACOB ASTOR'S REAL ESTATE TRANSACTION WITH THE
STATE AND GOVERNMENT.

New York, April 25, 1812.

D'r Sir: Since my letter of this morning I have seen Mr. Astor, who says he has authority to convey and assure to the United States as private property, the thirty feet in width which we regarded as street, which will give you 130 feet in width.

Col. Williams.

THE GOVERNOR DIRECTS THE EXPENDITURE OF THE UNEXPENDED
BALANCE ON THE WORKS AT THE NARROWS.

New York, April 25, 1812.

Gentlemen: I will thank you to proceed immediately in expending the residue of the appropriation for fortifications in such manner as you may upon consulting & advising with Col. Williams, judge most beneficial for the defence & safety of New York. As the Commissioners have recommended a further appropriation of thirty thousand Dollars and as I fully concur in that recommendation, I entertain no doubt the Legislature will make the appropriation; accordingly it appears to me that the Commissioners will act wisely in expending the balance now remaining in expectation of and with reference to such additional appropriation.

The Commissary of Military Stores is directed to equip the works with ball, powder, handspikes & other needful things which may belong to the State, and I have also directed him to make a few Gun Carriages for Fort Richmond, which should they prove good, will be placed there in lieu of the present carriages and the present carriages will be removed to Fort Hudson.*

The limited measures which the present unexpected balance will warrant, will not justify the expence of a head superintendent of Fortifications at four Dollars per day, and, therefore, the Commissioners will please to proceed in that respect, hereafter, as they may judge best adapted to the amount of the appropriation unexpended, & the extent of the works unfinished.

To the Commissioners of Fortifications.

CAPTAIN MOSELEY'S OFFER ACCEPTED—CONDITIONS UNDER WHICH
VOLUNTEERS WERE ACCEPTED.

Albany, April 27, 1812.

Sir: An opportunity has now presented, which enables me to accept of the tender of the services of yourself and company communicated to me on the fourth day of Dec'r last. You will perceive that there are two acts of Congress under which they may volunteer; that under which the detachment is now ordered, limits the service to six months and abolishes the punishment of whipping. The act authorising the President to accept the services of Volunteer Corps, extends the period of service to one year but confers other advantages. The officers if wounded

*Fort Hudson was the water-battery on the North face of the Staten Island Works—
STATE HISTORIAN.

will be placed on the pension list. One hundred and sixty acres of land will be given to the representatives of such as may be killed in service. The amount of a suit of cloathing for a soldier is to be paid in cash, and if they serve but one month, they are to be presented with a Musket, Cartridge box & other personal equipments of a soldier, as a compliment for their promptitude & patriotism in volunteering.

I send you both acts with the forms for volunteering under them, together with the forms of a Muster Roll and Inspection Returns combined in one.

Should your Company volunteer to the number of seventy five or upwards, I shall feel myself authorised to organize them into two companies, and to assign you as a Major in the Regiment in which those two Companies may be organized. And you can act under this impression.

Captn. Jonathan Moseley.

COLONEL LAMB NOTIFIED HE MUST REMOVE HIS RECRUITING RENDEZ-
VOUS FROM THE ALBANY ARSENAL.

Albany, April 28, 1812.

D'r Sir: When the Arsenal ground in this City was first occupied as a recruiting rendezvous, I understand that it was a temporary arrangement only, and that some other suitable place would be shortly procured. It is at all times inconvenient to a certain degree improper and unsafe to have such an establishment connected with an Arsenal, but it is peculiarly so at the present time, when it becomes necessary to have it constantly open for the purpose of receiving and delivering fixed ammuni-

tion, powder and other articles for preparation and defence & to have the work shops for the purpose of repairing our muskets and fixed ammunition. I cannot for a moment entertain the idea that the saving of ninety or one hundred Dollars per year in rent, can be the inducement for the United States to hazard the safety of the immense quantity of property in the Arsenal belonging to them and to this State. And as there can exist no difficulty in procuring some other suitable place for an inconsiderable rent, I have to request that you will, by the tenth day of May now next, and sooner if practicable, cause the recruiting rendezvous and the soldiers already enlisted with their baggage to be removed from the ground & buildings appertaining to this State.

Col. Anthony Lamb.

INSTRUCTIONS FOR COLONEL GEORGE FLEMING.

Albany, April 28, 1812.

Sir: I have this moment returned from New York and have received your letters under dates of the 10th and 20 Instant.

I have dispatched the Quarter Master General of this State and other agents to provide as well for transporting the Troops to their places of rendezvous, as for supplying them on their arrival with Barracks and other accomodations. Presuming that this business has been attended to, I have requested the Generals to order the Detachments from their respective Brigades, to march forthwith to Oswego, & you will please to take immediate measures accordingly.

You are to have one Major under you, and an Adjutant. The latter you will select for yourself. The Senior Captain, or

Major Noon, who has gone on in the capacity of Brigade Quarter Master, may act as Major. If neither should be agreeable to you, General Ellis will detach any Major from his brigade whom you may select.

Lt. Col. Geo. Fleming.

THE GOVERNOR, IN BEHALF OF SENATOR SMITH, APPLIES TO THE
PRESIDENT FOR LETTERS OF INTRODUCTION.

Albany, 28 April, 1812.

Sir: The Honbl. Nathan Smith, one of the Senators of this State and Gentleman of much respectability and worth, sets out this day for the southward with a view to ascertain the fate of a brother of his who left New York in November last to go to New Orleans, either by water from a southern Port or by land to Pittsburgh & from thence down the Ohio and who has never been heard of since. Mr. Smith entertains a fear that his brother must have died suddenly at Baltimore or Norfolk or have perished in the Theatre at Richmond.

Should he proceed as far as Virginia it may be necessary for him to be introduced to some persons to whom he may apply for advice and assistance in relation to the Estate of his brother. As I have no acquaintance in either of those cities, I have ventured to request of you to favour Mr. Smith with a line of introduction to some of your acquaintances in Richmond & Norfolk for the above purpose.

Were I not able to pledge myself to you for the honor, integrity and respectability of Mr. Smith I should not venture to make this request.

The Honbl. James Monroe.

IMPERFECT AMMUNITION—THE GOVERNOR LOOKS AFTER ORDNANCE
SUPPLIES FOR THE INEVITABLE WAR.

Albany, April 28, 1812.

Dear Sir: Upon examination into the state of the arms, ammunition at Canandaigua and Batavia, it said that several of the muskets are out of repair & that the fixed ammunition is mostly injured and unfit for use. The Barrel of Flints at Batavia, has been opened & prove to be very large and irregular. I send you in a paper some of them taken promiscuously from the barrel.

I wish you to have a knapsack made for a sample and send it to me by the Saturday's Steamboat—inform me also whether shoulder straps of leather or webbing are best, also of what kind of cloth knapsacks ought to be made and whether they ought to be painted or not.

Please also to let me know whether you can get leaden bullets for muskets of the United States caliber for less than 13 cents per pound. I can procure them here for that price, and we must have an immediate supply of them.

If there be not sufficient Cartridges in the New York Arsenal suited to the bore of the Whitney Muskets, you must have a quantity (100,000) prepared immediately.

John McLean, Esqr.

AMMUNITION ORDERED FOR THE CANANDAIGUA ARSENAL.

Albany, 28 Ap., 1812.

Sir: You will please to cause to be boxed securely for transportation without a moments delay: One thousand Tower Hill muskets in the Albany Arsenal—75 Rifles—one thousand cartridges boxes with Bayonet belts &c—28,000 cartridges, for

Tower Hill muskets, four boxes of Buckshot—thirty casks of cannon powder—15 casks of musket powder—five casks of rifle powder—500, 3 pound ball, 400 four pound ball & 300 six pound ball. You will also ascertain upon what terms Eri Lusher, of Schenectady, will convey the same to Canandaigua and report to me your proceedings as soon as possible.

John Vernor, Esqr., Assistant Comy. &c

GENERAL AMOS HALL CONGRATULATED AND AT THE SAME TIME
RECEIVES INSTRUCTIONS.

Albany, April 29, 1812.

Sir: I was sincerely gratified by the report which I received from Mr. Wigton of the promptitude and energy with which yourself, Genl. Wadsworth and other officers gave effect to the General orders of second Instant.* I pray you to receive for yourself & to convey in Division Orders to the officers and soldiers of the Division who have distinguished themselves by their prompt & voluntary tender of services, the high sense I entertain of their Military pride & patriotic zeal & to present them my cordial thanks. As you are better acquainted with the special instances of spirit and patriotic ardor shewn on the occasion, you will please to modify your Division Orders according to your knowledge of the particular officers and soldiers who may merit extraordinary praise and thanks.

If the Detachment shall not have marched previously to your receipt of this communication, you will please to put them in motion immediately. Any extraordinary contingent expences or services which you may be put to or render in your prompt

* For general order of date April 2, 1812, see Military Papers of Daniel D. Tompkins, Vol. I, pp. 315-17.

attention to this business, ought to be paid by the Government, and if you will keep a memorandum & account of it with your account for express hire, I have doubt I can procure the payment of it for you.

You will receive by this or the next mail, another General Order* for detaching from your Division its quota of 100,000 men. The number of men already detached has been deducted from the proportion of the 100,000 which would otherwise have fallen to your share.

Genl. Amos Hall.

INSTRUCTIONS TO COLONEL SWIFT WHO IS ORDERED TO NIAGARA.

Albany, April 29, 1812.

D'r Sir: The General Order,† of which the enclosed is a copy, will inform you of your orders to proceed immediately to your Post at Niagara or near it. If a part of the Detachment can be accomodated at Buffaloe, and a part at Lewistown, you may remain a few days at those places with your Field officers and all your Regiment, except two or three Companies, which may be sent to the Fort & put under the command of Captain Leonard. I mention this merely to provide for the event of Captain Leonard's having received no instructions to receive your whole Regiment into the Garrison or to respect your authority as an officer in actual service of superior grade to himself. Should that objection be obviated, however, before your arrival at Buffaloe, the precaution mentioned above may not be neces-

*For general order of date April 28, 1812, see Military Papers of Daniel D. Tompkins, Vol. I, pp. 323-24.

†General order of date April 28, 1812. See Military Papers of Daniel D. Tompkins, Vol. I, pp. 323-24.

sary, but you will at once repair to and assume the Command of the Post and district accordingly. It will be well to leave some trusty & active officer, non commissioned officer or private at Canandaigua, to receive dispatches for you and take them on after you. I have written to the Secretary of War for information as to the object & duties of the Detachment, and upon receiving an answer will address you at Canandaigua, which letter the person left behind will receive and convey to you immediately.

I am inclined to think your duties as a Senator must be considered of more importance than your Military duties unless invasion or war should commence. If neither should happen before that time, you are at liberty to confide the command of the Detachment to the senior Field officer under you, and to repair to the seat of Government by the 21st of May, where I may personally confer with you & communicate instructions for future operations of the Detachment.

Lt. Col. Philetus Swift.

JAMES WATSON'S APPLICATION FOR THE ARMY INDORSED.

Albany, April 29, 1812.

Sir: Mr. James Watson, who resides in my neighbourhood & with whom I am well acquainted, is a young man of moral & industrious habits, of good appearance and of respectable standing in society. I, therefore, recommend him confidently as qualified for and worthy of the appointment of Ensign or Second Lieutenant in the Army.

The Honbl. Wm. Eustis.

MR. LOYD APPLIES TO MANUFACTURE POWDER—MATERIALS SUPPLIED.

Albany, April 29, 1812.

Sir: Mr. Loyd, of Plainfield, Otsego County owns a powder Manufactory, but on account of the non-intercourse law & the want of extensive Capital, he cannot employ his works and all his hands to advantage. He will manufacture for the National Government powder of good quality and upon reasonable terms, if the materials be supplied, and will deliver the powder at Albany, Fort Stanwix (Rome) or Oswego. I am desired by him to make the enquiry, whether any encouragement can be afforded to him in the way above mentioned, and the public be benefited at the same time.

The Honbl. William Eustis.

TRUMAN ADAMS APPOINTED SURGEON'S MATE.

Albany, April 29, 1812.

Sir: I was absent in New York when your letter of the 14th Instant arrived here. I have written to Col. Fleming the Commandant of the Oswego Detachment, to employ you in the capacity of a Surgeon, or Surgeon's Mate to that Detachment, if no person had already been engaged by him for that purpose.

Truman Adams, Esqr.

Albany, April 29, 1812.

Sir: I have received a letter from Dr. Truman Adams, Post Master at Camillus informing me that he is about to remove to Oswego and would be glad to be employed as Surgeon or Surgeon's Mate for the Detachment of Militia under your command. Should you not have already selected a surgeon for the

Detachment I will thank you to make enquiry into the professional standing of Dr. Adams and, if it should prove respectable, to employ him in one of the above mentioned capacities.

Lt. Col. Geo. Fleming.

DR. HEWS RECOMMENDED AS AN ARMY SURGEON.

Albany, April 29, 1812.

Sir: I take the liberty of recommending for Surgeon in the Army Doctr. Benjamin B. Hews, of New York. He is a young gentleman of moral habits of polite and amiable manners and deportment and unexceptionable professional qualifications.

The Honbl. William Eustis.

THE GOVERNOR REQUESTS GOVERNOR GERRY OF MASSACHUSETTS TO APPOINT WITH HIM JUDGE CHIPMAN, OF ONTARIO, AS INDIAN SUPERINTENDENT.

Albany, April 30, 1812.

Sir: By the tenth article of the Convention entered into between the States of Massachusetts & New York on the 16th of December 1786, it is provided that no purchase from the Native Indians by the Grantee or Grantees, of the preemptive right to the lands & territory thereby ceded by New York to Massachusetts, shall be valid unless the same shall be made in the presence of and approved by a superintendent to be appointed for that purpose by the Commonwealth of Massachusetts.

I am not acquainted with the object of the above mentioned provision; but as the owner of the preemptive right of the Holland purchase, being the lands & territory mentioned in the

said Convention, are desirous of holding a treaty with the native Indians for the purchase of their right in a part of said lands, they have desired me to request you to cause a superintendant to be appointed for that purpose by the Commonwealth of Massachusetts pursuant to the aforesaid article of the Convention, and I beg leave to recommend Judge Lemuel Chipman, of Ontario County, as a suitable person to be appointed. Mr. Chipman was formerly a Senator in this State, is a man of probity, intelligence and respectability not interested in the premises and I believe wholly unacquainted with the parties interested. Should he be thought worthy of the appointment and be selected accordingly, the appointment may be enclosed to me & I will cause it to be immediately forwarded to him.

His Excellency Elbridge Gerry [Governor of Massachusetts].

THE GOVERNOR ACCEPTS THE SERVICES OF A COMPANY OF ARTILLERY.

Albany April 30, 1812.

Sir: Under date of the Eleventh Instant I received a letter signed by yourself and others, tendering their services as officers & non commissioned officers of a Company of Artillery. I have been requested by the President to Detach and organize 13,500 of the Militia of this State as part of whom the officers, non-commissioned officers and privates of your Company will be gladly accepted. There are two acts of Congress under which they may tender their services, and I send you a copy of each of them with the form of volunteering that the company may make its election.

Capt. Abel Foster.

THE GOVERNOR MAKES APPLICATION FOR THE APPOINTMENT OF
THOMAS MACHIN, JR., TO THE ARMY.

Albany, Ap 30, 1812.

Sir: Mr. Thomas Machin, Junior, of Charleston, Montgomery County has produced to me a recommendation from the speaker of our house of Assembly and others for an appointment as Captain in the Army. He would prefer the Cavalry or Artillery.

The father Mr. Machin was a Captain of Artillery* in the American War and distinguished himself for bravery and usefulness. You may perhaps recollect him. The applicant is his only son of about twenty six years old, well informed of respectable standing of good moral character and of patriotic principles.

Should there be an opportunity of giving him the desired appointment I hope it will be granted him as I have no doubt he will make an intelligent brave and useful officer.

The Honbl. Wm. Eustis.

THE GOVERNOR TO THE SECRETARY OF WAR IN REGARD TO THE
PROTECTION OF THE FRONTIER.

Albany, April 30, 1812.

Sir: Your several communications relative to Detachments of the Militia of this State to be stationed at Niagara, Oswego and the mouth of Black River have been duly received, and also the requisition for the quota of this State of one hundred thousand men. I found it necessary to dispatch an express

*Thomas Machin, was a distinguished Engineer not Artillery Officer of the War of the Revolution—STATE HISTORIAN.

with the orders for the first Detachments, and to empower each of the Major Generals to employ expresses not exceeding one hundred Dollars for each Division. The messenger which was sent by me visited the Arsenals in that direction, and made provisions for supplying the Detachment with arms and ammunition from the Public Stores. He also notified the contractor for Niagara, to prepare for supplying that Detachment with rations, visited Fort Niagara to notify Captn. Leonard of my orders, and ascertain the extent of accomodation for troops there. It has now become necessary that I should receive instructions upon certain points touching those Detachments. The Garrison at Niagara has been placed under the Command of Captn. Leonard, who I am advised will not feel himself justified in surrendering the command to an officer of superior rank of the Militia ordered into service at that Post without some notice or instructions to that effect from the War Department. It will be necessary to remove that difficulty immediately, otherwise misunderstanding and dissatisfaction will take place. To prevent this I have in the orders directing that Detachment to march, authorized Lt. Col. Swift to send three companies to the Fort & place them under Captn. Leonard & to keep the rest at Buffaloe & Lewiston with the Field officers, until I may hear from you. If Captn. Leonard shall have received the requisite orders, or will admit the Detachment and its officers to the command, according to their rank, Lt. Col. Swift is to proceed immediately to Niagara with the whole of his Detachment.

The precise object for which these corps were ordered out and the duties and services which they are required to perform, have not been communicated to me, and of course I am unable to issue orders or instructions upon that head to the

commanding officers. It is, therefore, desirable that I should receive as soon as possible, information and specific directions in that respect or that they should be communicated immediately to the commanding officers of the Detachments.

Peter B. Porter, Quarter Master General of this State, immediately after the receipt of your communication of the 20th Instant, proceeded to the westward to perform the duties of that Department. I advanced to him four thousand Dollars for that purpose, and gave him authority to draw on me at sight for such further sums as might be required. Genl Porter is not ordered into service or to take any command, but merely represents me in the performance of the duties imposed by your letter of April 20th.

Should you think it proper to deposit in the New York State Bank in this City, or to forward to me a draft for such sum as will reimburse the aforesaid advance, and discharge such draughts as may hereafter be made upon me for the contingent disbursements, advances to officers, pay and expenses of transporting and accomodating the men ordered into service, it will be acceptable. Any other way, however, of arranging that business, which may be more agreeable to the Government, will be equally satisfactory to me.

Lt. Col. Philetus Swift who is assigned to command the Niagara Detachment was a revolutionary soldier, is now a Senator of this State, and his experience fidelity and courage may be relied on.

Lt. Col. George Fleming, who is to command at Oswego, was made a Lt. Col. by appointment as my aid, for the express purpose of taking the command of that Detachment. He was an Artillery officer in the Revolution and served in the army since

the peace, until a few years back. His experience and patriotism render him a very suitable person for that Command.

I left New York on Saturday last; previously to which orders were issued for the Detachment of the quota of 100,000 men including the six companies of Artillery required for the works in the harbour of New York. The officers of several companies called on me for the Acts of Congress and for the form of volunteering under them. These were immediately furnished and I trust they have by this time, reported themselves to the commanding officer in the harbour. You will please to observe that the companies of Artillery consist of different members, some of 40, others of 50, and others of 75 men and upwards; of course if less than a full company shall volunteer with their officers, and their services be accepted, it must be expected that there will be a greater proportion of officers than would be necessary, were it practicable to organize companies of exactly 75 men each, including officers. Some direction granting indulgence in that respect will be indispensable & will be more proper when it is considered that those companies have no more than three commissioned officers.

As the works at the Narrows are most exposed and will be the first to be attacked, I take the liberty of requesting that two at least of the companies of artillery may be stationed there.

I was directed to receive volunteers under the act of the sixth of February last to compose the Frontier Detachments, but am not advised whether they may be received as part of the quota of 100,000 men or for any other purpose. As some Companies have already volunteered under that act, since the organization of the Detachments for Niagara, Oswego & Black River was

directed & in other Divisions than those from which those Detachments were taken as other companies are desirous of volunteering under the act of 6th of February, I beg to be informed whether the companies so volunteering, are to be accepted and organized as part of our quota of the 100,000 men & to be credited to the respective Divisions and Brigades accordingly, and if not, in what way are those volunteers to be organized?

In April or May 1808 I did myself the honor of conveying to the President, an act of the Legislature of this State appropriating 20,000 Dollars for the defence of our Northern and western frontiers to be expended by the Governor in co-operation with the National Government in such a way as might be most effectual for the attainment of that important end. The President did not think it advisable in the then state of our relations with Great Britain to commence any fortification or other military operations on the Frontiers which might create alarm with our Canadian neighbours. The appropriation is still at my disposal, but the plan upon which it is to be expended must be devised and entered upon by the General Government to enable me to comply with the terms of the law.

I must be permitted again to invite the attention of the President to that subject, and to repeat that I shall promptly and cordially proceed in the expenditure of the money in co-operation with the National Government in any system which may be advised or directed by the President.

The Honbl. William Eustis.

JOHN FELLOWS APPLIES FOR APPOINTMENT IN THE COMMISSARY OR
QUARTERMASTER'S DEPARTMENT.

Albany, May 1, 1812.

Sir: Mr. John Fellows, of the City of New York wishes to receive an appointment under the General Government in the Commissary or Quarter Master Department.

I have been acquainted with Mr. Fellows twelve years, during which time he has been employed in situations of trust & confidence which he has filled with integrity and usefulness. He is a Gentleman of intelligence, of respectable standing and of patriotic political principles. I, therefore, cordially recommend him as qualified for and worthy of a station in either of the said Departments.

The Honbl. William Eustis.

THE GOVERNOR MAKES REQUISITION FOR AMMUNITION AND EQUIP-
MENT FOR COLONEL BELLINGER'S DETACHMENT.

Albany, May 1, 1812.

Gentlemen: You will please to deliver to Christopher P. Bellinger, Lt. Col. Commandant of a Detachment of Militia ordered into service on the Frontier of this State, such Muskets, Cartridge Boxes, bayonet-belts & fixed ammunition from the Arsenals under your respective care as he may require, to equip the said Detachment & you will take duplicate receipts or certificates, therefore, specifying therein or in a schedule annexed thereto, signed by him a particular enumeration of the articles so delivered & transmit one copy of the said receipts or certificates to me.

Joshua Hathaway, Esqr., Rome and Joseph Clark, Esqr., Watertown.

AMMUNITION ORDERED TO GENERAL HALL.

Albany, May 1, 1812.

Sir: Since writing the letter which accompanies this I have received your two communications covering Inspection returns of the quotas from Genl. Wadsworth & Genl. Rea's brigade. Your attention to & accuracy in the discharge of the duties imposed by General Orders of the second of April merits & receives my cordial acknowledgements.

In consequence of the intimation contained in your letter of the 19th, I am prepairing, & shall send off on Tuesday 1000 Tower Hill muskets, 30,000 rounds of fixed ammunition, 30 Casks of Cannon powder, 16 Casks of musket powder 1000 Cartridge boxes &c for Canandaigua, of which the patriotic Militia of the westward will, I doubt not, make a patriotic & brave use should they be invaded or attacked.

A copy of that part of my General order of which is enclosed, supersedes the necessity of my saying anything about the limits of the western Divisions. A copy of that order was transmitted to Major General Myers, who previously commanded the whole and he ought to have made it known to all the subdivisions of his corps.

Major Genl. Hall.

THE GOVERNOR JOGS MR. M'LEAN'S MEMORY FOR AMMUNITION.

Albany, May 1, 1812.

D'r Sir: I requested you whilst in New York to send up fifteen hundred Cartridge boxes, bayonets, belts &c to Albany, but as I did not repeat the request in my letter of the 25th, I presume it has escaped your memory. I will thank you to send up with the utmost possible dispatch, 1500 Cartridge boxes &c

and about 30,000 rounds of fixed ammunition, suited to the bore of the Muskets on the Frontiers (16 to a lb.) They must be so put up as to admit of being forwarded from this to the westward without being unboxed. Dont forget the pattern knapsack, and the other subjects mentioned in my letter of the 28th of April.

John McLean, Esqr.

GENERAL WIDRIG RECEIVES INSTRUCTIONS FOR THE BLACK RIVER
DETACHMENT.

Albany, May 1, 1812.

Sir: I presume the Detachment directed by General Orders of the second of April must be ready to move. You will, therefore, please to assign two Majors, one from Oneida and the other from Jefferson or Lewis County, who together with Col. Bellinger of the Herkimer Brigade, will form the field officers of the Detachment. The senior Lieutenant Colonel of the Herkimer Brigade is, in consequence of your advancement to the Command of the Division, commandant of that Brigade & will be appointed a Brigadier General in about a fortnight, and the Command of a Regiment will in a short time be beneath his rank.

The Regimental staff will be selected by Lt. Col Bellinger & are to proceed with the Troops to their station. You will direct the several Brigade Detachments to Rendezvous at the places appointed for that purpose, and from thence to proceed in such numbers in a body as may be most convenient. You will direct Lt. Col. Bellinger to transmit without delay after the troops are concentrated, a correct muster Roll and Inspection Return and to report to me weekly, the occurrences in the

Detachment which may be worthy of notice. The Troops will be embodied and stationed at such place near the Black River as may have been selected & provided by the Quarter Master General, and for the purpose of seasonably ascertaining the place and of notifying the several sections of the Detachment thereof as they may arrive at Martinsburg Lowville or Watertown, Lt. Col. Bellinger ought to dispatch the Quarter Master whom he shall select for the Detachment or some other staff officer, to confer with the Quarter Master General or his Agent, who is at or near the mouth of Black River making preparations to receive them.

The Troops are to be considered in the service of the United States from the moment of their arrival at the respective places of rendezvous, and will from that time receive the pay & rations of Regular Troops & be subject to the Rules and Articles of War, which ought to be read on parade or such parts thereof as may affect the non-commissioned officers, musicians and privates, immediately after their encampment, and weekly, thereafter, & at least one copy thereof left at the guard House or other proper place to which there may be access at all times.

In the muster Roll and Inspection Return, the Lt. Col. will distinguish the Volunteers under the act of the sixth of February last, that it may be known to whom the provisions and advantages of that act are to apply & to whom not. The Quotas of the Detachment from Herkimer & Oneida Counties, who may be unsupplied with accoutrements, ought to proceed to the Arsenal at Rome and be supplied there with muskets, and other accoutrements in which they may be deficient, together with twenty-four cartridges for each man. Lt. Col. Bellinger must attend for the purpose of superintending the supply & of giving

a Receipt or Certificate to Mr. Hathaway for the articles received. The Residue of the Detachment will be provided with the articles of which they may be deficient, from the Arsenal at Watertown, Jefferson County, in the same manner.

Herewith you will receive a letter directed to the superintendents of the respective Arsenals to comply with the demands which Lt. Col. Bellinger may make upon them for Arms, accoutrements and ammunition.

You will please to enjoin upon the officers and soldiers to conduct in a conciliatory, orderly & respectful manner towards the Inhabitants on the route of their march and at the place of their encampment. By the time of their arrival and encampment Lt. Col. Bellinger will receive further orders and Instructions as to the nature of the duties the Detachment is to perform, and to enable me to communicate them to him the more expeditiously he must leave at Herkimer, an officer non-commissioned officer or private in whom he can confide to wait & receive dispatches from me & then convey them to him immediately. You will please to advise me how to direct to such messenger, so that he will receive my communications without any delay at Herkimer.

Major Genl. Widrig.

COLONEL BELLINGER ASSIGNED TO COMMAND THE BLACK RIVER
DETACHMENT AND RECEIVES HIS ORDERS.

Albany, May 2, 1812.

Sir: I have thought proper to assign you as Lt. Col. Commandant of the Regiment Detached from Genl. Widrig's Division, pursuant to General Orders the second day of April last.

You will, therefore, repair to Genl. Widrig's without delay and receive his instructions. My instructions to Genl. Widrig of which you will take a copy, contain all that is requisite to be communicated to you at present, except my authorizing you, if the Contractor shall not have made provision to supply the troops with rations at their respective places of Rendezvous & from thence to the place of encampment, you are authorized to do it at the contract price (14 cents per ration). I will further remark, that the Arms &c which may be taken from the respective Arsenal's must be returned there before your Regiment shall be disbanded, and that you will stand responsible for any wilful or culpable neglect by which any part of them shall be destroyed or taken away.

Lt. Col. Chr. C. Bellinger.

AUGUSTUS PORTER, OF NIAGARA COUNTY, RECOMMENDED BY THE
GOVERNOR TO THE PRESIDENT FOR INDIAN AGENT.

Albany, May 2, 1812.

Sir: The proprietors of the preemptive right to the reserved lands of the Seneca Nation of Indians in the westerly part of this State are about to hold a Treaty with the natives for the extinguishment of their claim to those lands. By the convention of 1786 between the States of Massachusetts and New York, it is provided amongst other things that all treaties to be held by the Grantees of the preemptive right with the native Indians, shall be held in the presence and with the approbation of an Agent appointed by the Government of the United States; and I am desirous to request the appointment of such agent to attend the contemplated Treaty.

Augustus Porter, first Judge of Niagara County, is a man of intelligence and great respectability in whose integrity & patriotism the utmost confidence may be placed. I, therefore, take the liberty of recommending him as a suitable person for the said agency.

The Honbl. James Monroe.

THE GOVERNOR CENSURES SILVANUS MILLER FOR FLAGRANT BREACH
OF FAITH.

Albany, May 2, 1812.

Sir: I have just recd. yours of the 30th of April, in which you allude to the publication of a certain letter and say "that you trust no other use has been made of the confidence I reposed in you with respect to it than what was fully authorized."

You surely have not forgotten already that when you & Mr. Van Wyck urged & even entreated me to permit the Committee which was going to Suffolk & Queens the next morning to shew my letter to some person there, you avowed the object to be to counteract an erroneous impression which prevailed amongst some of our mutual friends there that the nominations in Kings and Richmond, were deemed irregular by me or that I disapproved of them or something to that effect, and that the delegates of Suffolk had probably acted in part under that impression. I stated to you frankly that my uniform opinion had been, that those were the regular nominations for Senators but that the Congressional and Assembly tickets named by the General Committee at Mr. Martling's were, in my opinion, the regular nominations for the City of New York, but at the same time you were explicitly assured of my repugnance to become

involved in the controversies about regular nominations in the Southern District, as I disapproved in part the conduct of both parties; that I was apprehensive some improper use might be made of my name if any letter of mine should be shewn or that it would find its way into the Newspapers, to my mortification and injury. You each pledged your honor that no such thing was intended—that the letter should in no event be published, but would be shewn solely to a few friends in Suffolk and Queens for the purpose above mentioned, and you well know that but for that pledge I should never have yielded to your request.

I have this day seen a "Columbian" in which the most illiberal and harsh epithets with respect to one section of the Republican party in New York are alledged to have been used by me in a Confidential letter addressed to Col. Rutgers. As I do not recollect to have communicated the precise extent of that letter to any persons except to yourself & Mr. Van Wyck on the above mentioned occasion, it would seem the information of Mr. Holt* must have been derived from one of you. Besides the breach of faith in communicating them, the contents of the letter are unfairly and untruly detailed, & perfidiously used. What desirable purpose other than the petty gratification of placing adversaries in an awkward situation, of wounding my feelings, or of creating personal enemies could have been expected to be answered by the paragraph in question, I have not sufficient penetration to discover.

But to return to the letter. It was written in a frank unguarded style; and the assurances of two of my classmates in College, and my bosom friends from youth, that no publication in the papers or other unkind disposition of it should take

*Charles Holt, was editor of the Columbian.

place, prevailed upon me to allow the letter to be used for the purpose before mentioned, and it was accordingly committed to your discretion. Under such circumstances you can form a tolerable idea of my astonishment and indignation at finding myself betrayed by the publication of the letter in the Long Island & New York papers, in totidem verties, when too you knew I was absent and unable to give any explanation. Nay your now loving friend, and my uniform abuser Mr. Rose, in addition to the publication of the letter, is made the organ of communicating to the public the further galling fact, that the original was publicly hawking about and submitted to the Inspection of the curious at the room of a general Committee of which Committee, I understand Mr. Miller and Mr. Van Wyck were members.

With these facts before me, I should violate the sincerity with which I have ever dealt with you, were I not to declare explicitly that in the use which has been made of that letter, there has been an unwarrantable and treacherous breach of confidence some where; and it is equally due to candor to avow, that, although I shall not question your sincerity in hoping I shall not be denounced for the publication of the letter in these days of anarchy and distraction, which you seem to anticipate, yet it remains to be explained why the expectation that it would ensure my denunciation should not have had some influence on the minds of honorable and real friends, to withhold the extraordinary and ungenerous use which has been made of that letter.

Silvanus Miller, Esqr.*

*Silvanus Miller, Surrogate of New York, 1801-07, Member of Assembly, 1808.—STATE HISTORIAN.

IN RE APPLICATIONS FOR THE ARMY.

Albany, May 4, 1812.

Dear Sir: By a letter to the Secretary of War under date of the 18th of December last I took the liberty of recommending Mr. Jason Rudes of this place for a Captaincy in the Army. Should it be in your power to advance his appointment I have no doubt it will be satisfactory & that he will do justice to your expectations.

Genl. German, Washington.

—

Albany, May 4, 1812.

Dear Sir: By a letter addressed to the Secretary of War bearing date the 18th day of December last Mr. Jason Rudes, of the City was recommended by me for a Captain in the Army. Mr. Rudes is brother-in-law to Mr. J. Stafford, of this City and is well qualified for the appointment. I take the liberty of recommending him to your notice and support for the aforesaid appointment.

The Honble. H. Bleecker.

—

Albany, May 7, 1812.

Sir: Mr. Cornelius Hertell, of this City, is desirous of obtaining a station in the Quarter Masters Department of the United States Army. He is a Gentleman of intelligence, of respectable connections & standing, & fully qualified for the duties of Barrack Master or other station in the said Department and I, therefore, cordially recommend him to the notice & patronage of Government accordingly.

The Honbl. William Eustis.

THE OFFER OF THE REPUBLICAN GREENS ACCEPTED BY THE
PRESIDENT.

Albany, May 8, 1812.

D'r Sir: I have the honor to enclose you a copy of a letter from the Secretary of War announcing the President's acceptance of the services of the Republican Green Rifle Company.

Captn. James Maher.

GENERAL MORTON REBUKED FOR THE TARDY CALL TO DUTY OF THE
ARTILLERY OF HIS COMMAND ORDERED TO THE FORTS AT THE
NARROWS.

Albany, May 9, 1812.

Sir: The 450 Artillerists who by orders of the 21st April are directed to be detached from the first brigade of artillery, are expressly intended, and so declared to be by my instructions from the President, for the protection and defence of the harbour of New York and for that purpose they are to report themselves to the Commanding officer in that harbour & to Garrison the works there. You are, therefore at liberty to inculcate upon the Artillery of your Brigade that impression, & to give assurances to the officers and soldiers of the six companies accordingly. I shall expect no further delay in organizing that Detachment. Indeed I am ashamed of the delay which has already happened, & have written to the Secretary that I had no doubt before Tuesday last, the New York Detachment of Artillery had been reported to the Commanding officer in the harbour.

Genl. Morton.

CAPTAIN JOHN JAMES THANKED BY THE GOVERNOR FOR HIS
PATRIOTIC TENDER.

Albany, May 9, 1812.

Sir: Your communication, conveying the patriotic offer of the services of yourself and of the subalterns & soldiers of the company of cavalry under your command has been duly received. Their offer is gratefully accepted and will be borne in mind when the situation of our Country may require her brave sons to repair to the Field. I beg you to receive for yourself and to convey to the rest of the Corps an assurance of my high sense of the patriotism and gallantry of their conduct.

There are two acts of Congress under which military corps may volunteer, and that it may be the more accurately ascertained of which description the company under your command is to be regarded, I have taken the liberty of forwarding to you a printed copy of each act with the forms of volunteering under them, that the one preferred by the Company may be subscribed; and one copy, thereof, be transmitted to your Lieut. Col. of Cavalry, and the other forwarded to me accompanied by an Inspection Return of the company.

Captn. John James.

MR. BALL ASPIRES TO BE A MIDSHIPMAN.

Albany, May 9, 1812.

Sir: Mr. Eliphalet Ball, of this City, aged about twenty years, is desirous of entering the Navy as a midshipman. The assurances I have received from the Gentleman with whom he has lived for three years past, and from others of the first respectability in this City, are such as induce me cordially to recommend

Mr. Ball as an intelligent, industrious & moral young Gentleman of more than ordinary ability and well qualified for the station which he solicits.

The Honbl. Paul Hamilton.

BLANKS AND RETURNS FOR THE TROOPS.

Albany, May 9, 1812.

Dear Sir: Enclosed is a letter from the Brigade Major of Onondaga County, apprising me of his removal to the Town of Hector, in Seneca County & an additional General Order. I think we have already concluded to forward to each Brigadier not only a blank annual Return for the Brigadier, but also blanks for the use of the respective Commandants of the Regiment's & Companies within the Brigade. Several of the officers have requested that such returns might be furnished and if we should not have determined to do so I will thank you to let me know whether in your opinion it may not with propriety be done.

It is probable I shall not be in New York before the meeting of the Legislature.

Genl. Paulding.

THE GOVERNOR SUBMITS A LIST OF NAMES FOR THE PRESIDENT TO
SELECT A UNITED STATES DISTRICT COURT JUDGE.

Albany, May 10, 1812.

Sir: I have received your letter of the first Instant and beg leave to premise the answer to its contents with an apology for the intimation contained in my letter in 1811. It was then rumored that a vacancy in the office of District Judge was about to take place & certain candidates were mentioned as likely to

be the prominent ones, in whose talents & integrity, the Community had not in my opinion as much confidence as they had in those of other persons who might be named; and my wish to prevent an unsuitable appointment and not desire to interfere in the selection from an eligible and unexceptionable list of Candidates prompted the suggestion contained in my former letter.

Mr. Lawrence & Mr. Ferguson whom you mention, are men whose talents and integrity may be relied upon are, therefore, respectable Candidates for the office. In addition to their names, but not in opposition to them, I will mention the names of Matthias B. Hildreth, Attorney Genl of this State, Nathan Williams, of Utica, Roger Skinner, of Washington County, John Woodworth and John Champlin, of Albany, Jonathan Fisk, of Orange County, William Paulding, Junior, Peter Jay Munro, Charles Baldwin & Gabriel V. Ludlow of the City of New York. Out of the eleven Gentlemen above mentioned I do not think an injudicious appointment can be made.*

I will barely mention further, that as I may have omitted names in the above list which, had they occurred to my recollection, I should cheerfully have included, it is my wish that you should consider this communication as intended for your own and the President's eye only.

The Honbl. Albert Gallatin.

ADDITIONAL ATTRACTIONS HELD OUT FOR VOLUNTEERS.

Albany, May 11, 1812.

D'r Sir: Since writing my letter informing you that I am authorized to allow two months pay in advance, and sixteen

* The president ignored this list. May 27, 1812, William P. Van Ness of New York City was appointed Judge of the District Court of the United States—STATE HISTORIAN.

Dollars for cloathing. I have examined the Secretary's letter & find that the advance for cloathing is only to be made to the volunteers under the Act of which a copy is enclosed. It will, therefore, be necessary that the Commandant of each Detachment, should certify those who are volunteers, that it may be known to whom the sixteen Dollars are to be advanced in addition to their pay. The others will be entitled to pay for cloathing according the time they may serve but not in advance. Perhaps the whole will now sign as volunteers considering the advantages of that act.

Col. Bellinger.

A copy addressed to "General Porter" and one other copy addressed to Lt. Col. Fleming.

ANOTHER LIST OF MILITARY APPLICATIONS.

Albany, May 11, 1812.

Sir: I beg leave to recommend Mr. Elam Lynde, of Guilderland, in this County for a Captaincy in the Army. He is intelligent & patriotic and possesses Military qualities which he has displayed in an uniform Company at Troy of which he was Commandant. His moral character also is good.

Lewis Clark, attached to the Artillery Company of this City is an active, intelligent man of sound moral and political character, & would make a valuable subaltern officer & I recommend him accordingly.

Mr. Martin Nash, of Madrid on the River St. Lawrence, solicits the office of Captain in the army. He is now entitled to a majority in the Militia on the River St. Lawrence. He is recommended to me by Alexander Richards, Esqr., the Collector of

that District as a man of ambition & spirit, who is some- acquainted in Upper & Lower Canada and may be of advantage in case of War to the service & that he would make a good and faithful officer.

Dr. Jonathan Johnson, of Guilderland, in this County solicits the appointment of Surgeon or Surgeon's mate. He is recommended by the first professional men in this City as a regularly bred Physician & Surgeon, a member of the medical society of this City & of an unimpeachable character. He is, moreover, attached to the Government & Administration of his Country & is doubtless qualified for the station to which he aspires.

Mr. Jesse Shotwell, of St. Lawrence County, applies for a Lieutenancy & is recommended by Alex Richards, the Collector, as one who will make a vigilant & useful officer.

The recommendations of Zeba Clark & Morris Randall, are enclosed. The Gentlemen who recommend the former are Judge Cook, a member of Congress from this State & Mr. Cantine the District Attorney. Mr. Clark I have no doubt is a suitable character in every respect for the office which he seeks. The subscribers to Mr. Randall's Credentials are principally men of high respectability in this place. Mr. Randall will be at Randalls'—Haerlem, near New York during the summer.

Simon Van Ranken, of Albany desires a subaltern's appointment. He served as a student of law in the office of John Woodworth, Esqr., who certifies to me that he conducted himself with propriety, that he has had the advantages of liberal education and is of good moral character.

Mr. John Yatman, of Florida, Montgomery County, is recommended to me by Capt'n. Matchin, whose character you know, for a Lieutenant in the Army. Captain Matchin says "he has

always found Mr. Yatman a steady active & firm friend & supporter of the Republican cause, & if his services should be wanted, is fully convinced that he will merit the approbation of his Country and Government."

Mr. Teunis Cooper, of Schodack, in Rensselaer County, has desired me to recommend him as surgeon's mate. He has not been regularly admitted to practice but has pursued the study of Physic & Surgery for several years, has been industrious & made reputable progress in his studies and sustains an unimpeachable moral character.

The Honbl. William Eustis.

CAPTAIN MULHOLLAND'S ARTILLERY COMPANY'S OFFER ACCEPTED.

Albany, May 11, 1812.

Sir: I have the satisfaction to acknowledge the receipt of your letter under date of the fifth instant communicating the tender of the services of the officers and soldiers composing the company of Artillery under your Command. The patriotic offer is cheerfully accepted and will be recollected when the defence of our Country shall render it necessary to avail the state of their generous services.

You will please to accept for yourself and to convey to the other members of the company my high sense of their patriotism and military spirit.

Captn. Daniel Mulholland.

APPLICATIONS FOR THE NAVY.

Albany, May 11, 1812.

Sir: Captain William Billings & Joseph D. Jenkins, are desirous of obtaining appointments in the Navy with a view to have

a Command on the Lakes in the event of War. The Credentials of Captn. Billings are enclosed. The names subscribed to his recommendation are those of the principal Republican Inhabitants of the town of Canaan in Columbia County where he resides and are mostly respectable.

Mr. Jenkins I know personally. He is a good sailor and an active intelligent man well qualified for the Command of which he aims.

Will you pardon me for mentioning here the recommendation of Master Wynkoop of this City for Midshipman, which I had the honor of forwarding a few weeks back & for repeating the assurance that he is a very intelligent, handsome youth and is extremely anxious for an opportunity to distinguish himself in the service of his Country.

The Honbl. Paul Hamilton.

THE GOVERNOR INFORMS MR. WILLIAMS THAT HIS NAME HAS BEEN
SENT TO THE PRESIDENT AS CANDIDATE FOR THE UNITED STATES
JUDGESHIP.

Albany, May 11, 1812.

Dear Sir: I am this moment honored with your letter of yesterday, and in reply thereto, observe that I had previously transmitted a letter to Washington in which I had taken the liberty of mentioning yourself, amongst others, as a suitable candidate in point of talents integrity & standing for the office of District Judge.

Nathan Williams, Esqr.

MR. HOLT INFORMED THAT DESPATCHES FOR COLONEL BELLINGER
ARE TO BE ADDRESSED TO HOLT.

Albany, May 11, 1812.

Sir: I am advised by Lt. Col. Billinger, whom I have assigned to Command a Detachment of Militia destined for the Black River Country, to address dispatches for him to you. Accordingly, the enclosed letter has been put under your address & four copies of the Rules and articles of War for his use are likewise directed to you by this mail.

David Holt, Esqr.

Albany, May 11, 1812.

Dear Sir: By the mail which conveys this letter, I have forwarded under cover to David Holt, Esqr., four printed copies of the Rules and Articles of War for the use of the Detachment which you are to Command. I am also authorized by the President, to pay each noncommissioned officer, musician & soldier of the Detachment sixteen Dollars in advance for cloathing & two months pay. I will thank you to inform me immediately whether this can be best done before the Detachment depart from home, or whether it be better that I send the pay to the place of encampment to be advanced to them there.

Lt. Col. Christopher P. Bellinger.

THE GOVERNOR SUMMONS THE COUNCIL OF APPOINTMENT TO MEET
AT HIS HOUSE IN ALBANY, ON MONDAY, MAY 18, 1812.

Albany, May 11, 1812.

Gentlemen: There was an understanding before we separated that the Council ought to meet previously to the assemblage of the Legislature, to dispatch the necessary appoint-

ments before the business of Legislation should engross the attention of the Members of the Council. I have, therefore, thought proper to convene the Council of Appointment at my house in the City of Albany on Monday, the 18th of May,* Instant, at eleven o'clock in the forenoon at which time & place you are requested to attend.

The Honbl. Wm. W. Gilbert, [New York] the Honbl. Johannes Bruyn, [Ulster] the Honbl. Henry Yates, Junr. [Schenectady] the Honbl. Francis A. Bloodgood, [Oneida].

TO PETER B. PORTER CONCERNING THE CONDITIONS ALONG THE
FRONTIER.

Albany, May 12, 1812.

Sir: I am this day honored with your letter of the 5th of May & approve of your determination of placing barracks for 150 men on the public ground at Black Rock on a permanent plan. Indeed should you extend them so as to accomodate 300 men I should think it best. Let the Roofs be made of good and durable materials & the siding of the best stuff that can be got so that they may, hereafter, be converted into Winter barracks.

Being apprised of Captn. Leonard's probable unwillingness to admit the Detachment into Fort Niagara or to surrender the command to an officer of superior grade, I addressed the Secretary of War upon the subject. By the course of the mail I ought to have received his answer last night. Should it be received this evening or tomorrow I shall forward it immediately. It is likely Instructions have in the mean time gone to Captn. Leonard by an other route.

*The legislature which the governor had prorogued March 27, 1812, reconvened at Albany on Thursday, May 21.—STATE HISTORIAN.

As far as I have yet been able to learn from Genl. Dearborn, & others the object for which those troops were detached, I find that the Execution of the Embargo did not enter into the views of Gov't. but that under an apprehension of war the Members of Congress from this State had requested that the Frontier thereof should be seasonably protected by an advanced corps of the Militia. This looks probable when it is considered that 600 men were ordered to Niagara where there were troops enough already for Embargo purposes & eight hundred to Black River, (to protect our friend Stow). At the latter place, a Detachment of eight hundred men was unnecessary to execute the Embargo laws, & it appears to me much less useful for the purposes of defence & protection than they would be if stationed towards Ogdensburgh and St. Regis & at Oswego.

By the same letter in which the Secretary is desired to give directions to Capt'n. Leonard for the admission of the Troops, I have desired him to make me acquainted with the precise objects of the Detachments & with the duties which they are to perform, so that orders & Instructions upon that head may be issued. Until I receive and communicate such Instructions, the attention of the Detachment will be devoted to discipline & the improvement of these places of accomodation parade ground &c.

The President has authorised me to advance two months pay to the Detachment of sixteen Dollars in advance for cloathing. But the money has not been remitted for the purpose, tho' an authority is given me to draw on the War Department. That matter will be adjusted in the course of a week when I shall send on the necessary funds. In the mean time, should there be any advances to the above mentioned extent indispensable for the accomodation of any members of the Detachment, you can

make advances & refund yourself out of the remittance for pay & cloathing.

The Honbl. Peter B. Porter.

TWO NEW BATTALIONS OF ARTILLERY WITH THE NAMES OF THE
COMMANDING OFFICERS SUGGESTED BY THE GOVERNOR TO
GENERAL STEVENS.

Albany, May 12, 1812.

D'r Sir: Pursuant to General Orders, the artillery to be detached from the second & third brigades of Artillery, are to be organized into two Battalions* the Commandants, of which are to be assigned by you. I am desirous of announcing the organization of that Regiment so far as relates to the Field & staff officers, & for that reason wish to be informed immediately whom you will assign as Majors that I may complete the organization. The list of your Majors in those two Brigades out whom the selection is to be made follows.

Samuel Slee of Poughkeepsie, Dutchess Co, John Kerr, of Orange Co, Majors of Myer's Regt.

Samuel Hamilton, of Greene Co, William Dixon, of Albany Co, Majors of Watkins's Reg't.

Covert,† of Essex Co, one vacant, Thorne's Regiment.

Peter C. Fox, of Montgy. Co, John Veeder, do Teller's Regiment.

[Joseph] French, Herkimer Co, Walter Grieve, Ontario, Majors of the Regiment lately commanded by Gen'l. Kirkland.

I have concluded to assign Stephen Thorne, of Washington County near Lake Champlain, Lt. Col. Commandant of the

*Military Papers of Daniel D. Tompkins, Vol. I, pp. 319-321.

† Levi Cooley, first major of lieutenant colonel Stephen Thorne's regiment.

Detached Regiment of Artillery and, therefore, to distribute the Field officers equitably; one of the Majors ought to come from the south of Albany & the other from the West. Major Kerr, of Orange County is extremely intemperate & unfit for the Command as I am informed. Major Slee of Poughkeepsie is an intelligent active and able officer. The two Majors of Watkins' Regiment were recently promoted from Captains of short standing in consequence of the formation of a new regiment. As the Lieutenant Col is taken from the Northern Regiment, which leaves but one Field officer, (Major Covert)* in that Regiment, I presume it will not be expedient to take him. Major French, of Herkimer will be appointed a Lieutenant Colonel next week, instead of Col. Kirkland, who is appointed a Brigadier General & Major Green of Ontario will probably be appointed Lt. Col. Commandant of a new Regiment, to be formed of the Artillery Companies West of Utica. Majors Fox & Veeder are the only Majors West of Albany who will probably accept. They are both respectable men. Fox is the senior and inherits good fighting blood. His father distinguished himself at Oriskany and on the Mohawk in the Revolution. Major Fox was assigned as a Major in both the former Detachments of Artillery. Upon the whole it appears to me that Peter C. Fox from the West & Major Samuel Slee from the South will be the most eligible selection. But I wish you to regard this as nothing more than an opinion of an individual which is not to control or influence you against your own judgment in the choice of the two Majors. You have the list before you, with the remarks upon it and will please to make an assignment of any two of them you think proper & advise me of it by mail as soon as possible.

* See page 600.

The Quota from the first Brigade, including New York, Long Island, Staten Island & Westchester County is already organized into two Battalions, under Majors Swartwout & Bleecker.

Major Genl. E. Stevens.

THE GOVERNOR PUTS A FEW MILITARY QUESTIONS TO MR. SECRETARY
EUSTIS.

Albany, May 13, 1812.

Sir: By the mail of last evening I was honored with your communication of the 8th instant accompanied by remittances from the Treasurer & Pay Master amounting to fifty thousand Dollars.

I extremely regret the necessity of troubling you again at a time of so much pressure upon your Department but the amount of the remittance, and the responsibility attached to its expenditure, will I hope plead my apology for soliciting an early answer to the following enquiries.

1. Does the authority contained in your letter of May 3^d extend to the advance of two months pay to officers and of all non commissioned officers and privates whether volunteers or not? And is subsistence of officers for two months in advance to be included?

2d. Is the advance of Sixteen dollars for cloathing to be confined to volunteers under the act of the 6th day of February last, or to be extended to volunteers for the detachment generally?

3d. Is that portion of the Detachment which may not be entitled to an advance of sixteen dollars on account of cloathing, to receive an allowance in advance for two months cloathing as well as two months pay?

4. Is the act of 16th March 1802, the only one by which the pay & cloathing are in this instance to be calculated, and are the

rules and regulations ordained in the War Department previously to 1st Decr. 1807, relative to quarters fuel, straw, transportation of baggage, stationary, and the employment of Physicians, &c the only regulations upon those subjects now existing?

5. Are not the Commandants of the respective detachments, inasmuch as they command separate and independent posts, to be allowed double rations in their accounts for subsistence?

6. As a large sum in small bills must be conveyed from Albany to the frontiers for the purpose of paying the detachments will, a suitable compensation for, and the expenses of a respectable, trustworthy and responsible person, to be sent from this place with the money, be allowed in the settlement of my account as a necessary contingent disbursement?

7. Are the commandants of the detachments intended to be invested with authority to appoint General Courts Martial, according to the 65th article, or with power merely to institute Regimental and Garrison Court Martial under the 66th article or neither?

Could the forms of Muster Rolls, Pay Rolls, accounts for subsistence, forage, and all other allowances, as they are required to be rendered to the War Department, be sent on it would greatly oblige the officers & facilitate the ultimate settlement of my accounts.

The Honbl. William Eustis.

RELATIVE TO PAY, SUBSISTENCE, FORAGE AND CLOTHING OF TROOPS.

Albany, May 13, 1812.

Sir: Your communication under date of the 8th Inst covering a remittance of 30,000 dollars on acct of the pay subsistence, forage & cloathing of Militia is received, for which duplicate receipts are enclosed.

The distribution of that sum under the several heads of Pay, subsistence, forage & cloathing, which I have subjoined to the receipt is, & must needs be, arbitrary, for I am not yet advised what proportion of the troops in service are volunteers, under the act of the sixth day of Feby last, authorising the President to accept and organize certain volunteer Military Corps; and as I understand the Instructions from the War Department, the advance of sixteen dollars on account of cloathing is restricted to volunteers under the last mentioned act.

The receipt which I have signed, is for pay &c of Militia under the authority of the Act of Congress, passed the 10th day of April 1812. If it be a material circumstance, it ought to be known to you that the Militia for whose pay &c the remittance is made were ordered into service in March before the passage of the act to which the receipt refers.

Your former indulgence emboldens me to ask for information upon one point, namely; Whether the account for Subsistence is to be confined to the subsistence of the officers only, or whether, the contingent expences of supplying the Troops with Rations, accomodations &c on their march from the Rendezvous to the places of their encampment are also to be considered as appertaining to the subsistence account.

Robert Brent, Esqr.

Copy of the Receipt.

Received of Robert Brent, Pay Master of the Army, of the United States this 13th day of May 1812 at Albany in the State of New York the sum of thirty thousand dollars on account of the pay, subsistence forage & allowance for clothing of the Militia under authority of the Act of Congress of the 10th of April 1812 for which sum I am accountable having signed duplicates thereof.

Daniel D. Tompkins.

Pay	\$20,000
Subsistence	1,000
Forage	500
Clothing	8,500
	<hr/>
	\$30,000

THE GOVERNOR SUPPLIES GENERAL PORTER WITH INFORMATION AND
THE ARTICLES OF WAR.

Albany, May 13, 1812.

D'r Sir: I send you the original of a letter received this day from the Secretary of War, which I will thank you to return to me after the object of giving you the original is accomplished. You will see that Captain Leonard is authorized to receive the Troops or such part of them as may be necessary for the Fort and will surrender Command to Col. Swift if required. You will observe further, that the object of the Detachment was protection & defence and not the enforcement of the Embargo law—that no offensive operations are expected from them, and, altho it is obscurely expressed, that the advance of sixteen dollars on account of cloathing &c mentioned in my letter of yesterday is to be confined to volunteers under the act of Feb'y 6th.

I have this day received the remittance mentioned in his letter & will forward the money as soon as I can get an answer to my enquiries contained in a letter, which I have this day addressed to the Secretary. After perusing the Secretary's letter of May 3d & that of May 8th, which are enclosed, I am perfectly at a loss whether any pay or cloathing is to be advanced provided there be no volunteers under the Act of February 6th. The Secretary's answer to my questions will be recd by the time Col. Swift shall arrive here to attend the Senate, & I will send him immediately back with the Money and Instructions for its distribution.

Thinking that you ought to have the Rules and Articles of War and the Regulations of the War office, I have sent you two copies by the same mail which conveys this letter.

As the troops have nothing to do but guard against invasion, no further directions from me are necessary at present. I will, therefore, barely repeat an injunction that they be industriously & assiduously trained & disciplined and place their barracks, parade-ground & other accomodations in perfect order. Perhaps I shall take a look at them in person before the middle of June. Please to present mine & Mrs. Tompkins affectionate regards to your brother and his amiable wife.

General P. B. Porter.

THE GOVERNOR ACKNOWLEDGES THE RECEIPT OF \$20,000 FROM THE
GOVERNMENT.

Albany, May 13, 1812.

Sir: Your letter of the 8th has been received and also a communication from the Treasurer covering a remittance of 20,000 dollars on account of "Expenditures for the Militia." In addition to the receipt which is enclosed for your office I have forwarded a receipt to the Treasurer.

William Simmons Esqr.

(Copy)

I acknowledge to have received a draft of the Treasurer of the United States No. 4378 on the Cashier of the Manhattan Company, New York for twenty Thousand Dollars payable to my order; being to meet "expenditures for the Militia" for which sum a receipt or acknowledgment has also been transmitted to the Treasurer of the United States.

Albany May 13th 1812.

Daniel D. Tompkins.

To William Simmons, Esquire
Accountant of the War Depart

MAKES FORMAL ACKNOWLEDGMENT TO THE TREASURER OF THE
UNITED STATES.

Albany, May 13, 1812.

Sir: I have to acknowledge the receipt of your Draft No. 4378 on Samuel Flewwelling, Esqr, Cashier of the Manhattan Com-

pany New York, for Twenty thousand Dollars, payable to my order being to meet "expenditures for the Militia," for which sum I have also transmitted a receipt or acknowledgment to the accountant of the War Department.

Th. T Tucker, Esqr., Treasurer of the U. S.

A CONFUSION IN THE NAME OF DONNELLY.

Albany, May 13, 1812.

Sir: Since writing yesterday relative to the mistake in the name of Mr. Donnelly, I am informed (by an uncle of John C. Donnelly) that Peter Donnelly, Junior, a cousin of John C, was recommended by Mr. Southwick as a Lieutenant, and it is, therefore, possible that Peter Donnelly, Junior was intended. Probably Genl. German can explain the business. The appointment which has come on is for Thos. Donnelly.

The Honbl. Wm. Eustis.

DR. JOSEPH ELY RECOMMENDED AS AN ARMY SURGEON.

Albany, May 14, 1812.

D'r Sir: By the mail of this day a recommendation is forwarded to you for the appointment of Dr. Joseph Ely, Surgeon in the Army. I am not personally acquainted with Dr. Ely and can, therefore, only say in compliance with his request, that some of the subscribers to his recommendation, including Judge Burr, Major Depuy & others of Onondaga County, are respectable persons, whose assurances are entitled to confidence. As Dr. Ely resided a number of years in Montgomery County it is

probable you are acquainted with his moral & professional character.

The Honbl. Mr. Sammons.*

LIEUTENANT-COLONEL BELLINGER IN COMMAND OF THE DETACHMENT
OF OBSERVATION.

Albany, May 14, 1812.

D'r Sir: I last night received your letter accepting the Command of the Black River Detachment. The troops of whom you have the command are neither intended to enforce the Embargo Act nor to pursue any offensive operations, but are merely an advanced corps to defend & protect the Frontiers from Invasion. This object is repeated in a Communication from the War Department received by me last night. Of course the only duty the troops will have to perform until Invasion may happen, or further orders be received is to improve themselves diligently in discipline, tactics & the police of a Camp & in rendering their quarters, parade ground & other accomodations as convenient and perfect as possible.

You are at liberty to send on the troops in such small squads or sections and at such different times as you think proper, so that they may obtain accomodations on the road, taking care that some officer go on as I suggested before to have them comfortably received and accomodated on their Arrival. You are at liberty further to sepearate the Detachment into two or three parcels if houses, barracks, huts, tents, or other accomodations

* Thomas Sammons was born in Montgomery County, New York; received a public-school education; served as an officer in the Revolutionary war; elected a representative from New York in the Eighth Congress as a Democrat; re-elected to the Ninth Congress, serving from October 17, 1803, to March 3, 1807; defeated as the Democratic candidate for the Tenth Congress by Peter Swart; again elected in the Eleventh Congress; re-elected to the Twelfth Congress, serving from May 22, 1809, to March 3, 1813; died at Johnstown, New York.

for the whole are not prepared at one place, & to keep them so separately accomodated until the whole can be conveniently assembled at one place. With these instructions as to the duties to be performed & with his discretion as to the manner of going on and accomodating the troops when there, you cannot be at a loss. Especially when I add, that you may draw on me at sight for 1,000 dollars for which draft the cashier of the Bank at Utica will give you the Cash, if you shew him this letter. You will keep duplicate receipts or vouchers for all the contingent expences and regularly account to me therefor; you may also advance occasionally a small sum to any of the officers or soldiers who may need it not exceeding two months pay in advance taking care to have a receipt or authority to refund it when the advance pay comes on, which will be soon after you are settled down.

Lt. Col. Bellinger.

N. B. If you direct your Majors and Captains to come on with their respective squads of the Detachment as they are ready, you can go ahead yourself and be prepairing to receive them. You need not leave a non-commissioned officer after the receipt of this letter, but on your arrival to the Northward advise me what post office is nearest to your encampment and I will direct to you there. D. D. T.

GENERAL PAULDING'S OPINION ASKED ON A MILITARY TECHNICALITY.

Albany, May 14, 1812.

D'r Sir: The enclosed was [this] day received. I am uncertain whether the charges form the subject of a Court Martial or of a Court of Inquiry only, or whether they are cognizable by either.

The Major General is by the 93d section of the Militia law competent to institute a Court of Inquiry, and if that be your opinion, I will thank you to send it to Genl. Coles or return it to Captn. Tylee, the first subscriber, with reason for so doing. Should you be of opinion that I ought to appoint a Court Martial you will draw an order accordingly. Perhaps you may think that, if there be any legal demand upon the General to account for fines, a right of recovery thereof is vested in the Brigade Board, established by the 85th section, and that the only redress for negligence or refusal to account, must be pursued by them: and if so, that neither a Court Martial or Court of Inquiry ought to be ordered. I will thank you for an opinion which of the three dispositions above mentioned ought to be made of the application.

General William Paulding, Junr.

DR. HAMLIN SOLICITS APPOINTMENT AS AN ARMY SURGEON.

Albany, May 14, 1812.

Sir: Dr. Amos Hamlin, of Durham Greene County, is a man of professional ability & experience and of good standing in society. He solicits the appointment of Surgeon in the Army for which I cheerfully recommend him.

The Honbl W. Eustis.

THE QUESTION OF EXEMPTIONS FROM MILITARY DUTY.

Albany, May 18, 1812.

Sir: Two questions relative to exemptions in your Regiment have been submitted to me upon which an opinion is requested. The first relates to the members of a Fire Company. The 13th section of the Act of 1809 exempted all Firemen belonging to

established Companies but the third section of the amendatory act of 2d April 1810, repeated the said 13th section, and enacts that all Firemen belonging to Companies established or to be established, and to which there is actually belonging or attached a fire engine fit for use shall be exemptd from Militia duty. Now if the Company in question is a legal Company, & does now, without reference to the bill which is pending before the Legislature, come within the provision last above mentioned, then the members thereof are exempted from a draft, otherwise not. It depends, therefore, upon a matter of fact with which I am unacquainted. The bill before the Legislature, however, has no bearing upon the question, nor are any explanations or privileges therein contained to be allowed or recognized until it shall actually become a law.

The 13 section of the law of 1809, exempts all judicial officers. The Surrogates are judicial officers, and, therefore, expressly exempted by that section. The 57 section of that act, and the 24 section of the Amendatory Act of 1810, however, contemplate the liability of Surrogates to a limited fine for not parading and of course subjects them to Militia duty by implication. My opinion upon a hasty examination of the subject is, that the express exemption by the 13 Section of the Law of 1809, must controul the clause which makes them liable to Militia duty by implication only, & that, therefore, Surrogates are not liable to do Militia duty or to be drafted.

Col. Davis.

APPLICATIONS FOR MILITARY HONORS.

Albany, May 19, 1812.

Sir: Samuel Dill, a Judge of the Court of Common Pleas, for Oneida County, and one of the Majors assigned to the Detach-

ment stationed at Black River, is desirous of entering the Regular service in the grade which he now holds. Should that not be attainable he would I understand accept a Captaincy.

Mr. Diŀl, will in my opinion make an intelligent & useful officer. His political principles are and always have been Republican.

Clark Putnam, who is now a Lieutenant Colonel of Militia in Oneida County also desires to enter the Army as Major. I am not personally acquainted with him, but he is represented to me, by Mr. Bloodgood a Senator from that County, as a friend to the Government & Country and qualified to make a good officer.

The Honbl. Wm. Eustis.

Albany, May 22, 1812.

Sir: Dr. Henry Adams, of Coxackie son of Peter C. Adams, Esqr., is a Gentleman of professional respectability and of good standing, character & personal appearance. He wishes to be appointed a Surgeon in the United States Army, for which office I cordially recommend him.

The Honbl. W. Eustis.

Albany, May 22, 1812.

Sir: Stoddard Smith, Esqr, of Greene County, wishes to obtain the office of Deputy Commissary under the General Government. He is a Gentleman of Intelligence & character and well attached to the Government & Country. I, therefore, recommend his application for the above appointment to your notice and support.

The Honbl. Wm. Eustis.

IN BEHALF MATTHIAS BRUEN OF NEW YORK IN BOND REMISSION
MATTER.

Albany, May 25, 1812.

Sir: Mr. Matthias Bruen, of New York Merchant, has I understand, an application depending before you touching the remission of certain bonds, executed by him & others in the State of Vermont. I am wholly unacquainted with the transaction which lead to the execution of the bonds & with the merits of his application before you; but in justice to Mr. Bruen, I am bound to say that I have been acquainted with him for a number of years & with his character & standing as a merchant & citizen & that they have always been respectable & unimpeached.

The Honbl. Albert Gallatin.

ADJUTANT-GENERAL PAULDING WAVERS IN HIS DUTY—ALBANY OR
WASHINGTON.

Albany, May 26, 1812.

Private.

Dear Sir: I have to apologize for the delay of answering your letter in which you wish my opinion whether you ought not to come here instead of proceeding to Washington, according to your summons. The truth is, there is no pressing or even considerable necessity for your coming here, although you know I should be happy to see you. Therefore, if it be your own free preference, or if it will be more beneficial to your health or if a sence of duty in your estimation, require that you should go to Washington, let not your state office retard you a moment. On the contrary, if you will be more pleased and comfortable in a visit to Albany, or if it will better comport with your health & comfort, or if you really prefer it, then & not, otherwise, you may

consider this letter as a request for you to repair to this ancient & renowned City.

The Honbl. William Paulding, Junr.

THE GOVERNOR'S DEFERENTIAL POSITION TO THE JUDGMENT OF
CHANCELLOR LANSING ON THE SIX MILLION BANK CHARTER.

Albany, May 26, 1812.

Sir: The Council of Revision met this day and amongst other subjects had before them the bill to incorporate the Six Million Bank. It is apparent that the six members who attended will be equally divided upon the question of its passage. The Bill was committed until Monday next at 5 o'clock in the afternoon unless your arrival at Albany in the mean time should render it proper to convene a meeting at an earlier day.

I have thought it my duty to give you the above information and respectfully to request that, should you be unable to attend the meeting on Monday, but be desirous of expressing an opinion upon the bill before the ten days expire, I will thank you to advise me of it; and I will notify a meeting on Thursday, the fourth day of June, to give you an opportunity of being present.

The Honbl. Chancellor Lansing.

THE GOVERNOR'S OFFER TO COMMISSION CLEMENT C. MOORE A PAY-
MASTER TO RELIEVE HIM OF AN EMBARRASSING SITUATION.

Albany, May 30, 1812.

Dear Sir: That you may not be astonished, at finding yourself announced in a few days as Paymaster of a Regiment of Artillery, detached from the Militia of this State, I beg leave to apprise you beforehand of the motives which have induced me to assign you to that station.

The Rev'd Mr. Clowes acquainted me with your having been drafted as a private in the detached Corps of the Militia, which is about to be organized. It immediately occurred to me that I could relieve you from that situation by placing you in the Staff Department. The office of Paymaster is of all others, the most compatible with literary pursuits, and requires the least experience in Military tactics.

It is not, however, expected, that in the event of calling the Regiment into service, the staff officers thereof, will be required to attend; for it is composed of Companies dispersed through every part of the state, some of which would undoubtedly be dispatched to the south, a part to the north in the direction of Lake Champlain and a part towards the Western Frontier. The attendance of the Regimental staff officers will not, I apprehend, be indispensable until the whole Regiment shall be embodied in one place; when there will be very little duty, and that not strictly of a Military kind, attached to the office of Paymaster; and should you then be disinclined to act in that capacity there are numbers who will solicit your place. By resorting to this mode of relieving you from the embarrassing consequences of the draft, I act perfectly consistent with my official authority and duty & with the public welfare; and trust you will not give the course I have pursued an unfriendly construction.

Accept, D'r Sir, a sincere declaration of my respect & esteem.

Mr. Clement Moore.*

* Clement Clark Moore, the American scholar and poet, was a native of New York, born July 15, 1779, died at Newport, R. I., July 10, 1863; one of the few Americans of whom it can be said his birth occurred during the first great war of the Country and his death during the greatest war the Country has yet seen. In 1818 he gave to the New York General Theological Seminary, which during the present generation was developed and cared for most generously by Dean Hoffman, a large part of his grounds in Chelsea—Ninth and Tenth Avenues, Twenty and Twenty-first streets. In this institution he served as professor of biblical learning, and of Oriental and Greek literature from 1821 to 1850. He published a Hebrew and Greek Lexicon, and a volume of poems, but is best known as the author of the poem "'Twas the night before Christmas."—STATE HISTORIAN.

DR. CHARLES TOWNSEND DESIRES TO BECOME A HOSPITAL
SUPERINTENDENT.

Albany, May 30, 1812.

Sir: Dr. Charles D. Townsend of this City is a Gentleman of respectability and of excellent standing in his profession. Being desirous of obtaining the superintendence of the Hospital department of the encampment in the vicinity, I venture to recommend him cordially to your notice as a Gentleman well qualified for and worthy of that station.

The Honbl. Wm. Eustis.

THE ASSEMBLY REFUSES TO PERMIT THE GOVERNMENT TO BUILD A
FORT ON THE STATE PRISON WHARF AT GREENWICH VILLAGE.

Albany, June 3, 1812.

Sir: I sent to the Legislature a special message relative to giving authority to the United States to erect a work of defence on the State Prison Wharf. You were mistaken in supposing that the Agent or Inspectors were friendly to that measure. They made a formal remonstrance and I am satisfied made communications of the same import to the members of the City individually. The desired permission was of course refused in the assembly yesterday by a strong vote. It will, therefore, become necessary for you to locate some other site for the proposed fortification. It will consume time to communicate with me upon the subject of obtaining private property under the act of this state providing for the case. You may, therefore, consider yourself fully empowered to represent me in making an agreement & taking a title to the People of this State for any other site you may select, and may rely upon my confirma-

tion of your proceedings & upon my conveyance to the United States of such title of this to the said site, according to the law, a copy of which has, heretofore, been sent to you.

Col. Jonathan Williams.

TROUBLE BETWEEN MR. ISAAC SNEDEKER AND HIS CAPTAIN OVER A
CERTIFICATE.

Albany, June 4, 1812.

Sir: I have received your communication covering the enlistment Rolls of the Company of Cavalry under the command of Captain Suydam. It is evident from those papers that you are entitled to a certificate of having served fifteen years & it is certainly improper that the certificate should be withheld. I, however, have no power to direct or compel Captain Suydam to comply with his duty, but every refusal in an officer to do an act of justice or to perform a duty towards a private, which the law contemplates, will constitute an offence for which he may be tried by a Court Martial & punished: and I take to be the proper and perhaps the only remedy in your case. I cannot believe, however, that Captain Suydam or his successor, if one be appointed, will persist in denying a certificate upon an explicit application to them for that purpose, and upon shewing them the original Rolls of the Company or furnishing them with other evidence of the fact of your having served fifteen years.

Mr. Isaac Snedeker.

COLONEL FLEMING ACTS AS A DISTRICT COMMANDER.

Albany, June 5, 1812.

D'r Sir: Yours of the 29th is before me. I thought I had authorized you to name and assign an Adjutant & other staff

at the commencement of our correspondence. You are at liberty to order Mr. Earl or any other person you may think proper to perform that duty whether such person shall hold the office of Adjutant in the Militia or not. Mr. Earl will be appointed Adjutant of Col. Wood's Regiment tomorrow.

I have assigned a District Paymaster who is by this time at Canandaigua on his way to Niagara, to pay that Detachment from whence he will proceed immediately to Oswego by water and advance two months pay, subsistence Forage & Cloathing to your corps which I hope will be satisfactory to them.

By a letter which I have recd. from Washington, it appears your services and duties are solely confined to the defence & protection of the Frontiers against Invasion. Of course you have nothing to do until further occurrences, but to discipline the Detachment & endeavour to make their accomodations comfortable. You are at liberty to call in a Surgeon's mate to aid the Surgeon should it become necessary & to consider yourself vested with all other needful discretion of a District Commander.

Lt. Col. Fleming.

P. S. You will see by the papers in possession of the Paymaster, that you are entitled to double Rations being Commandant of a District Post. I beg leave also to mention that it would be well to open a correspondence with Lt. Col. Philetus Swift who commands at Niagara and with Lt. Col. Christopher P. Bellinger who commands at or near Sackets Harbour & to lay the foundation of concert in operations and facility of communication in the event of hostile movements against either point. D. D. T.

COLONEL BELLINGER DIRECTED TO OPEN CORRESPONDENCE WITH HIS
NEIGHBORING COMMANDERS.

Albany, June 6, 1812.

D'r Sir: A District paymaster is now at or near Niagara with money for two months pay and cloathing for the Detachments. He will proceed from Niagara to Oswego & from Oswego to your Detachment.

You will see by the papers in possession of the Paymaster that you are entitled to double Rations being Commandant of a District Post. Allow me to advise that you open a correspondence if practicable with Lt. Col. George Fleming at Oswego and Lt. Col. Philetus Swift at Niagara that you may be able to co-operate each other more expeditiously & effectually in case of difficulty at any particular point. You will consider yourself vested with a liberal discretion as to the manoeuvring & accommodating the Detachment.

Lt. Col. Christopher P. Bellinger.

OFFICERS FOR COLONEL TALLMADGE'S REGIMENT.

Albany June 9, 1812.

D'r Sir: The appointments for your Regiment have been made with the exception of Majors.

Upon the recommendation of the Council of Appointment, I have referred the contending claims for the offices of first and second Major, a Board of Officers which is to meet at Bostwicks & Ruggles' Hotel in Poughkeepsie, on the 24th June Inst. General Leonard Smith, of Newburgh is President, and is to notify the members of the Court & the contending parties.

Lt. Col. James Tallmadge, Junr.

THE APPOINTMENT OF MR. OGDEN AS INDIAN AGENT TO THE SENECA.

Albany, June 13, 1812.

D'r Sir: Your letter of May 18th did not come to hand until Friday evening 22d May after your brother Charles had probably left this City and of course it was not in my power to confer with him and it was useless also to have any communication for him at the Eagle tavern as I had at that time received no communication either from Washington or Boston on the subject of the appointment of agents to attend a Treaty with the Senecas. No information has yet been received by me from the Secretary of State. The Governor of Massachusetts has returned the enclosed answer, which, as I do not know where to address your brother D. A. Ogden at the present time, I take the liberty of sending to you.

Thomas L. Ogden, Esquire.

GENERAL VAN WYCK'S RESIGNATION AND HIS ALLEGED GRIEVANCE
AGAINST THE GOVERNOR.

Albany, June 13, 1812:

D'r Sir: Your letter of the 6 day of June, has been received, About the same time I was favoured with a Communication from Major General Hathorn, which detailed to me the reasons assigned by General Van Wyck for his resignation. As those reasons consisted principally of complaints against me, it certainly would have been more frank and generous to have addressed me upon the subject in the first instance, that an explanation if were proper might have taken place. The two principal causes of umbrage, which but for the above mentioned letter from General Hathorn would perhaps have come to my

knowledge, are the appointment of Mr. Pudney, Brigade Quarter Master, in opposition to another person recommended by the Genl. for that office, & my having required him to make the returns when he had not been furnished by the Adjutant Genl. with blanks for that purpose. It is now between 4 and 5 years since the appointment of Pudney took place; and Genl. Van Wyck well knows, that the departure from his recommendation on that occasion was not at my particular Instance, or request or with my full approbation, but was produced by the urgent recommendation and solicitations of other persons, amongst whom was one of the General's Relatives, by whom that transaction as I have understood, was explained to his perfect satisfaction upwards of two years ago. If Genl. Van Wyck thought the appointment of Mr. Pudney, a good cause for his resignation why did he not then resign? It is evident from his not having done so then, that the appointment although perhaps disagreeable to him, afforded in his opinion no reasonable ground for a resignation. To present that state pretence now, as a cause of resignation & that too in the shape of a Complaint against me, addressed to another person who might never have communicated it to me, I must confess was unexpected & manifests a disposition in Genl. Van Wyck which my respect for him as a Gentleman did not allow me to anticipate. What makes it still more ridiculous in him to complain of me and to affect such great sensibility years afterwards about an act of the Council of Appointment which violated neither principal or rank, is that he has intimated to you a willingness to resume the performance of his duty on certain conditions, one of which is, that I shall in direct violation of usage, principal & right, remove from office, merely because the Genl. is affronted with

him, the Inspector of his brigade who has served faithfully in that office for sixteen years.

The other alledged cause of offence, namely, that he had received Genl. Orders from me requesting him to make the returns required by law at times when he was not supplied with printed blanks for that purpose by another officer, is as against me, a pretext so trifling and at the same time so unfair & unreasonable, that I cannot give it a serious notice.

As his resignation and the reasons for it are addressed to Major Genl. Hathorn, it rests with that Gentleman to dispose of it as he pleases. Until it be accepted, Genl. Van Wyck must act as he thinks his oath & propriety require, with regard to the neglect or performance of his duty. I certainly shall not coax him or offer terms to prevail on him to resume the performance of his duty, neither shall I make to him any excuses or apology, for I owe him none. Whether his unkindness towards me in the above particulars does not require an explanation on his part, will be left to the decision of his own sense of justice & propriety, it will not be demanded. I should do injustice to my feelings, Dear Sir, were I not to add that your motives & friendship in writing to me upon the subject, are duly estimated and I sincerely regret that I cannot reconcile it with propriety and self respect to make any communication to Genl. Van Wyck of the tenor suggested by you.

Jacob's J. Swartwout, Esqr.

TWO MORE ARMY APPLICATIONS.

Albany, June 13, 1812.

Sir: I have the honor to enclose a recommendation of John McCrea, for the appointment of Captain in the Army. Besides

the representation of the subscribers with whom I am acquainted and in whom I have confidence, Mr. McCrea has been favourably spoken of by other respectable persons of Essex County. I have, therefore, no doubt of his fitness for the office of Captain or subaltern nor of the propriety of his appointment.

The Honbl. Wm. Eustis.

Albany, June 13, 1812.

Dear Sir: I am informed that to each Division of the Army is attached a Judge advocate with the rank and pay of a Major. Philip S. Parker, Esquire, of this city, late recorder of the City of Hudson, wishes to fill that station in your division. Mr. Parker is and always has been attached to the Republican administration of the Gen'l. Government and being competent and qualified and of respectable standing in society, I beg leave cordially to recommend him to your notice & support for the said office.

Major Genl. Dearborn.

DISSATISFACTION WITH RATIONS, AND CAPTAIN ANDERSON IS
CAUTIONED.

Albany, June 13, 1812.

Dear Sir: I have received several communications apprising me that the rations issued to the troops in Herkimer & at Sackets Harbour and Oswego are not of the quality or quantity which they ought to be or according to contract. Whether this proceeds from a disposition in those who supply to create disgust or dissatisfaction amongst the detachment, for political purposes, or from their being too much cramped in their price or from wilful imposition I know not; but I deem it my duty to inform you that I shall cause an immediate and minute enquiry to be made into the quantity and quality of all the provisions

which have been supplied to the detachment and shall represent to the General Government every noncompliance with the precise tenor of the contract. I give you this friendly notice that you may caution your subcontractors & avoid the unfavorable impressions of the Government against you which the conduct of the subcontractor is calculated to make.

Elbert Anderson Junior.

NICHOLAS BROWER PRESENTS MILITARY HATS TO DISTINGUISHED
GENTLEMEN.

Albany, June 13, 1812.

Dear Sir: The Military hats which you were so kind as to present to Genl. Dearborn & Genl. Gansevoort were duly delivered.

For the one which was directed to me be pleased to receive my thanks & to rest assured of my wish to promote your prosperity and happiness in every way which may be in my power.

I expected to have visited New York immediately before the present session of the Legislature, when I should have had a personal interview with you: And since the session my public duties have occupied all my time. I hope these circumstances will be accepted as a sufficient apology for my delay in acknowledging your kindness.

Mr. Nichl. B. Brower.

THE GOVERNOR RECEIVES AN INVITATION TO DINE WITH COLONEL
SITCHER'S ARTILLERY OFFICERS ON THE FOURTH OF JULY.

Albany, June 13, 1812.

D'r Sir: I have the honor to acknowledge the receipt of your letter containing an invitation to dine with the officers of the

Fourth Regiment of Artillery on the fourth day of July next. The critical state of our public affairs renders it almost impossible for me to determine at present to what part of the State my duty may call me at that time. I am so deeply impressed with a belief that I may be detained at the seat of Government or be called towards the Northern or Western Frontier before July, that I dare not venture unconditionally to promise to be in New York on the fourth. I am, however, duly sensible of the honor the officers of that Regiment confer upon me by their polite invitation, and can only say that should I not be prevented by public events from being in the City on the next anniversary, I will with much pleasure dine with them on that day.

Col. Andrew Sitcher.

FOR DISPOSING OF THE TROOPS ORDERED TO THE NARROWS.

Albany, June 14, 1812.

D'r Sir: I had some time since requested the Secretary of War to order a part of the detachment of 450 men from your Brigade to be posted at the Narrows. If those men are in service I should prefer their being sent there, but if they have not been called upon I have no objection to having the regulars stationed there. The terms upon which they may be so stationed will be arranged by the Commissioners so as not to interfere with their operations.

Twenty five thousand dollars have been appropriated in addition to the former sum, and I am also authorised by the Frontier Act to build an Arsenal there out of another fund. The Commissioners will make their arrangements accordingly. It is of course expected, if troops be stationed there, that they are

to occupy the works so far as shall not interfere with or incommode the Commissioners. It is also expected and the Commissioners are explicitly to inform Genl. Bloomfield accordingly, that as the Frontier Law passed the other day, vests the possession of the public works and ground in the person administering the Government of this State for the purposes therein specified, and possession of the work and ground by the Agents of the U. States will be at will, and subject to the discretion and controul vested by the last mentioned act. In my opinion the platforms of the upper works (Fort Hudson) or directly in the rear of them, will be the most airy & healthy places to encamp troops in the summer in tents—& that no more than may be necessary to man Fort Richmond need remain below the Hill. It would also be well to make an arrangement, if it can be done, that the soldiers may work for the State if they shall be wanted upon the same terms & for the same portion of their time as for the United States at the Islands.

Genl. Morton.

MR. RUGGLES STRONGLY INDORSED FOR AN ARMY COMMISSION.

Albany, June 16, 1812.

Dear Sir: The enclosed is signed by the Senator and members of the Assembly from Washington County and by some of the principal Military & civil officers of that County. I presume it will be satisfactory & will induce you to cause Mr. Ruggles' name to be placed on the list of Candidates for the Army with such favourable observations in his behalf as the enclosed credentials will, in your opinion justify.

The Honbl. Benjamin Pond.

MR. BARENT G. STAATS' APPLICATION FOR A COMMISSION IN THE
ARMY.

Albany, June 16, 1812.

Sir: The young Gentleman named in the within recommendation is the son of Mr. Barent G. Staats. I am not personally acquainted with him but know the subscribers of the enclosed papers all of whom are also well known to you to be amongst the most respectable Inhabitants of Albany. I need only to add a request that you will present Mr. Staats name to the War Department, with such representations in his favour as you may think his credentials will warrant.

The Honbl. H. Bleecker.

REQUISITION FOR A FIELD PIECE FOR CAPTAIN SMITH'S BATTERY.

Albany, June 18,* 1812.

Sir: The State is not at present supplied with Field pieces sufficient to accomodate all the Companies of Artillery. I am, therefore, under the necessity of requesting that you will permit Isaac Smith, 2d Captain of a Company of Artillery, in Richfield, Otsego County, to have one of the Field pieces heretofore delivered for your Company upon his calling, therefor, and giving you a receipt for the same. His Company is at present destitute of any piece and it is but reasonable that both Companies should participate in the use of the two pieces in that part of the County until we may be enabled to send on additional Field pieces.

Captn. Haviland Chace.

*Congress declared War against Great Britain June 18, 1812. See Military Papers of Daniel D. Tompkins, Vol. I, pp. 32 et seq; 209-17; 345-50.

THE GOVERNOR DISCRIMINATES AGAINST A FAMILY OF OFFICERS.

Albany, June 20, 1812.

Dear Sir: You may remember that I mentioned to you an inclination to appoint you Lieut. Col. of a detached Regiment of the 13,500 Militia. I discovered afterwards that the Major Genl. had assigned Tisdale Eddy, who belongs to your regiment and is, I presume, your brother or son, a Major of the detached Regiment, and I had concluded to assign Major Vandercook, your son in law, as Brigade Inspector of the Brigade to which that Regiment is attached; I became apprehensive, that to take all the principal officers from the limits of one Regiment, and from the same family, might very justly give dissatisfaction to the other officers of the Rensselaer Brigade; and as you appeared indifferent about the command when I spoke to you upon the subject, and appeared rather to prefer that Major Vandercook should be assigned to a command, I concluded the assignment of Tinsdale Eddy for Major, & of Mr. Vandercook for Inspector, would be deemed by you as a sufficient apology for taking the Lt. Col. from DeRidders Brigade, notwithstanding what I had formerly intimated to you. Without such distribution, De Ridder's Brigade would not have a General, field or staff officer in the Detachment.

Lt. Col. Gilbert Eddy.

THE GOVERNOR APPOINTS FRANCIS M'CLURE A LIEUTENANT-COLONEL
WITH A BIT OF GOOD-NATURED WARNING.

Albany, June 20, 1812.

D'r Sir: I have this day organized all the Rifle Corps in New York into the first Regiment of Riflemen and have appointed Francis McClure, Lt. Col. Commandant thereof. Daniel Fisher & Reuben Munson are the Majors.

Your resignation has been destroyed and your Commission as Major which you sent to me in a passion is herein returned. You also are assigned to the Command of the Detached Regiment of Riflemen. If you let that unruly Irish blood of yours drive you into such another fit, and to a resignation of the office of Lt. Col., I give you notice that I will get in a passion too and take you at your word.

Col. Francis McClure.

MAJOR SLEE APPARENTLY DISSATISFIED WITH HIS RANK.

Albany, June 20, 1812.

D'r Sir: I am just favoured with your letter of the 18th Inst. and in answer thereto would remark that the Militia Law of the U. States does not contemplate the offices of first and second major as two distinct grades, for the 3d section provides, that there shall be to each Regiment one Lieut. Col. Commandant and to each Battalion one Major. The Majors of a Regiment ought, therefore, to rank as first or second Major thereof according to the dates of their respective Commissions. In the army all the Majors of a Regiment are commissioned as Majors generally, & take rank as first, second or third, according to the dates of their respective Commissions.

It was not intended by the General Order referred to by you to assign you to a command below your grade. On the contrary, the order declares you to have been assigned to the Command of a Battalion and that is the Command of a first as well as of a second Major. The Regiment is to consist of the two Battalions & that Major of the two Battalions who has the oldest Commission will in that Regiment rank before the other, even though they may be both first Majors by Commission. Fox is Senior

First Major to yourself, and, therefore, will rank next to the Lieut. Colonel or command the first or right Battalion, and you the second. It is in that sense only that the order mentions you as second Major, and you must remember that this will always be the case where two detached Battalions commanded by first Majors come in contact, the senior of the two will command or take the right and it is no degradation to the other Major to take the left.

It is your Commission that gives your rank and grade & where the detached Regiment shall assemble, you will take the rank & station in it to which your present Commission in the Artillery may entitle you. Nothing beyond that could be expected. You will see by the enclosed order that in the organization of the Cavalry, I have not used the words first, second & third Majors of the Regiment, because I did not know their relative ages, & yet when that Regiment shall assemble, although they be all first Majors by Commission, one of them will rank as first, another as second, and another as third Majors of that Regiment. You may easily suppose the case of a Regiment of Artillery composed of three Battalions commanded by three Majors. According to your views of the subject as we have none but first and second Majors, the command of the third Battalion would degrade both descriptions of Majors. That impression I deem erroneous. It would be perfectly consistent and proper for a first Major to command the third Battalion of a detached regiment or be the third Major of such Regiment provided the other battalions were also commanded by first Majors older than himself.

I took the liberty of recommending Major Fox and yourself as the most suitable officers to command the respective Battal-

ions detached from the second and third Brigades of Artillery and Major Genl. Stephens complied with the recommendation immediately. I should extremely regret the loss of your services in the command which you have been assigned, & think there can be no doubt of the propriety of accepting and officiating as Junior or second to Fox as you really are. Should you think otherwise, however, and decline the command of a Battalion in the detached Regiment, notwithstanding this explanation, I will thank you to apprise me of it immediately, that I may select & notify some other officer.

Major Samuel Slee.*

FIELD PIECES AND AMMUNITION ORDERED FROM THE CANANDAIGUA
ARSENAL TO BLACK ROCK.

Albany, June 20, 1812.

Sir: Please to cause to be transported to Black Rock and to be delivered to Col. Philetus Swift without delay, two field pieces, some Cannon ball (say 200) about twelve casks of Cannon powder, a few casks of Musket powder and about 15,000 rounds of fixed ammunition. Also two sets of Colours or Regimental Standards, and so many good drums and fifes as may be necessary to equip the Detachment under Col. Swift's command. You will also consider yourself as having a liberal discretion as to extra allowance of vegetables, &c for the sick and others of the detachment.

The enclosed directions to the superintendent of the Arsenal at Canandaigua, requires him to deliver to you as your order, the above articles. Captain Reuben Hart, is hereby required to deliver the Field pieces attached to his Company to be

* See Tompkins Papers, Vol. I, pp. 327-28.

replaced by others sent on from this place. Those pieces will also be transported to the Detachment. Should there be any other articles in the State Arsenal at Canandaigua which in your opinion are indispensable or highly needful for said Detachment, you are at liberty to convey such Articles also to Black Rock.

Peter B. Porter, Q. M. Genl. S. N. Y.

Albany, June 20, 1812.

Sir: Please to deliver to the order of Peter B. Porter, Quarter Master General, Two Field Pieces with harness and implements complete, some Cannon ball (say 200) suited to the Caliber of the pieces, some slow match or Port fire, twelve casks of Cannon powder, 4 casks of musket powder and 15,000 rounds of fixed ammunition. Should there not be sufficient quantities of the respective articles before mentioned in the Arsenal, you will deliver what there may be of each kind. Duplicate Receipts must be taken for all the articles delivered, and one copy thereof must be transmitted immediately to Commissary McLean.

To the Superintendant of the Canandaigua Arsenal.

CAPTAIN HART ORDERED TO DELIVER HIS GUNS TO GENERAL PORTER.

Albany, June 20, 1812.

Dear Sir: I am under the necessity of requesting that you will deliver the pieces attached to your Company with the harness and implements to Peter B. Porter Quarter, Master General to be sent on the Frontier detachment. They will be replaced to your Company without delay and I hope you will not hesitate to submit to a temporary deprivation of them for the public good.

To Capn. Reuben Hart, Canandaigua.

THE GOVERNOR SUGGESTS GENERAL JOHN ARMSTRONG AS THE
MILITARY COMMANDER OF NEW YORK CITY.

Albany, June 20, 1812.

Dear Sir: I have learned from General Dearborn and others that the Government is desirous of selecting some suitable person to appoint to the command of the Port and harbour of New York and their dependencies and that the command will be a separate and independent one.

In consequence of the above suggestions I caused indirect enquiries to be made whether Genl. Armstrong would take such a command. His talents and experience ought not in my opinion to be lost to the Country in the approaching crisis and I am happy to find that his patriotism is awake and that he is disposed to do everything in his power to promote the interests of his country.

It is to be remembered, however, that he was during the revolutionary War, senior in rank to the present major Generals, and it is not very likely that he feels any inferiority to them in knowledge, talents & public standing. It is not, therefore, to be expected that he will accept, but on the condition that the command is to be a strictly independent one, & the officer answerable only and directly to the President and Secretary of War. In that case I venture to say, he would accept without regard to the grade, rank or title of the office with such compensation as Government may think proper to annex to it.

Will you please to consider this communication confidential, except so far as to make known to the President or Secretary of War alone its contents, in such a way as may be best calculated to produce useful ends and to convey to them my most

decided opinion that no arrangement can be made which will be so satisfactory and beneficial as that of the appointment of Genl. Armstrong.

Genl. Peter B. Porter.

THE GOVERNOR ORDERS AMMUNITION AND ORDNANCE TO ALBANY.

Albany, June 22, 1812.

Dear Sir: Send up immediately one hundred Rifles, 1000 Muskets (Whitney's) 1000 Cartridge boxes 75,000 rounds of fixed ammunition 18 to a lb. & 25,000 rounds 16 to a lb. All the six pounders and three pounders at your disposal must be sent up also. You will not slumber upon the execution of this order. If the steam boat will take the arms & cartridge boxes &c for the usual freight or a little more, and on this emergency I think it ought, you will send some of the articles by her. Employ all the hands you may want and have every article we possess in readiness.

John McLean, Esqr. Comy. of Military Stores.

DAVID DUNHAM RECOMMENDED AS DEPUTY COMMISSARY FOR NEW YORK CITY.

Albany, June 22, 1812.

Sir: I am informed by Mr. David Dunham of New York that he is about to apply for the office of Deputy Commissary in the City of New York. My intimate acquaintance with Mr. Dunham for a number years enables me to vouch for his acquaintance with business, his intelligence, integrity and respectability and I cordially recommend him as qualified for and worthy of the office above metd.

The Honbl. William Eustis.

MAJOR JOSEPH SKINNER APPOINTED AS ASSISTANT COMMISSARY AND
ORDERED TO PLATTSBURGH.

Albany, June 23, 1812.

Sir: I enclose you a Commission as assistant Com'y. for the Eastern District—an office created at the last session with a salary of 400 dollars. You will please to qualify to it immediately & proceed to Plattsburgh & be ready to receive and take care of & distribute the arms, ammunition &c which are now there & which are forwarding from this place. You will obey the orders of Major Genl. Mooers & Brigadier Genl. Petit.

War is declared & bearer of this proceeds as express upon that subject to Genl. Mooers; give him every needful assistance in procuring horses &c.

Your office will be an active one at this perilous & critical period. Be on the alert, therefore, and slumber not upon the Execution of any order or requisition.

Major Joseph Skinner.

COLONEL GEORGE FLEMING, COMMISSARY FOR THE WESTERN DISTRICT, ORDERED TO ALBANY.

Albany, June 23, 1812.

Sir: Herewith I send you a Commission as Commissary for the Western District. Should you accept it, Lt. Col. Cleveland of Madison County will succeed you in the command at Oswego. As soon as you should determine whether you accept this Commission or not, I wish to be informed of it. Your personal presence in Albany to confer upon future operations in that department is requested, should you accept. The salary is 600 dollars & there will be expences paid for extra services. I have

directed Genl. Ellis to order additional troops to Oswego upon your requisition.

Lt. Col. George Fleming.

ABIJAH YELVERTON CARRIES THE WAR NEWS TO THE FRONTIER
POSTS.

Albany, June 23, 1812.

Dear Sir: The bearer of this is the bearer of the Declaration of War to the Frontier Posts. He has orders to call on you and request you to dispatch an express to Lt. Col. Fleming without a moment's delay with the communications addressed to Col. Fleming. Loose not a moment in complying with his request. He will advance money if necessary or you draw on me for it.

Abijah Yelverton, Jun. Esqr.

MAJOR SKINNER ORDERED TO PROVIDE A SUITABLE GUARD FOR THE
ARSENALS AT PLATTSBURGH AND ELIZABETHTOWN.

Albany, June 24, 1812.

Sir: It is provided by an Act passed 12th June 1812, entitled "An Act further to provide for the defence of the Frontiers and for other purposes," that the person administering the Government of this State whenever in his opinion the security of the Frontier Arsenals may require it, may employ a guard for each of the said Arsenals to consist of one Corporal & six privates, to erect a guard house for them and to prescribe rules & regulations for their Government; and that the corporal shall receive twenty dollars per month, and each private fifteen dollars per month, for pay, rations, subsistence and cloathing, to be paid

quarterly, by the assistant Commissary of the district. You are, therefore, hereby authorized to enlist & establish a guard as above, for the Arsenals at Plattsburgh and Elizabethtown, to provide a guard house at each place, & to prescribe such rules & regulations for the Government of the said guard as may appear to you to be best calculated to ensure the security of the said Arsenals and the public property deposited & to be deposited therein.

Major Joseph Skinner.

THE GOVERNOR FORWARDS FIVE THOUSAND DOLLARS TO COMMISSARY
M'LEAN.

Albany, June 24, 1812.

Dear Sir: That you may not be in want of funds, to meet the contingent expences of executing the orders which I have given by letter of this date, I enclose you a draft for five thousand dollars. You will please to send me duplicate receipts for so much received "on account of and to be accounted for under the act further to provide for the defence of the Frontiers & for such other purposes" passed June 12, 1812.

John McLean, Esqr.

COMMISSARY M'LEAN NOTIFIED THAT PROMPT EXECUTION OF ORDERS
IS INDISPENSABLE.

Albany, June 24, 1812.

Sir: You will cause tents of the best materials and models to be made in New York without delay for two thousand men. Mr. Dunham has informed me that his agency for the United States has made him acquainted with the places where Russia Sheetting is to be had and the prices at which it can be obtained,

and has tendered his services in procuring the same articles for the State. Mr. Mooney has also offered to make the tents. I mention these things that you may avail yourself of their offers should you find it advantageous. You will also cause two thousand knapsacks and 400 Camp Kettles to be made immediately.

You will please to understand once for all, that prompt execution of orders in such an emergency as now exists is indispensable in every Department, and that I shall expect every order to be executed with the utmost dispatch, even if one thousand men must be employed for that purpose. Send the 1000 muskets—100 Rifles—1000 Cartridge boxes—75,000 rounds of fixed ammunition 18 to a lb, 125,000 rounds 16 to a lb, ordered by my letter of the 22d Instant. To which add the pattern Cartridge box which I have been expecting since April, a quantity of Cartridge paper, some slow match, port fire & 300 Casks of Musket, Rifle, & Cannon powder, of Bullus' manufacture in proper proportions. You will ask permission of the United States officer commanding the seaboard to Store State Articles in the Arsenal at Sagg harbour & upon such permission being obtained send on and store there under the care of Genl. Rose, or some other proper officer, 500 Muskets & the requisite ammunition & equipments. But if on enquiry, you shall find that the United States have supplied, or will supply their above mentioned Arsenal with arms and ammunition sufficient for the Inhabitants of Suffolk to use in defending themselves, then you will dispence with the execution of the last mentioned order. Should the militia be ordered into field service & be unsupplied with arms they must be supplied from the Arsenal upon the order of the Lieut. Governor or of any Major General.

John McLean Esqr.

A GUARD ORDERED FOR THE ARSENAL AT RUSSEL.

Albany, June 24, 1812.

Sir: You are hereby authorised pursuant to the provisions of the third section of the Act entitled An Act further to provide for the defence of the Frontiers & for other purposes passed June 12, 1812, to employ and organize a guard to consist of one corporal and six privates to the guard the Arsenal at Russel,* & the public property deposited therein; and you are likewise hereby empowered to establish Rules & Regulations for their Government and to provide a guard house for their accommodation. Those rules and regulations, however, will be superseded by such as the assistant Commissary for the Western District shall hereafter establish. Col. George Fleming is appointed to the office of Assistant Commissary & will be respected and obeyed as such by all the superintendents whenever he shall have accepted & qualified to his Commission.

Russel Atwater, Esqr.

THE GOVERNOR TO DEWITT CLINTON—REINFORCEMENTS SENT TO THE FRONTIER POSTS AND TWENTY-FIVE THOUSAND DOLLARS TO NEW YORK CITY.

Albany, June 24, 1812.

Dear Sir: There is no General Officer of the line of the Army of the United States, or Quarter Master General or other officer at this place upon whom I can depend for attention to the safety of the Northern & Western Frontiers, neither have I yet received any orders from the President to add to the

*One Copy with "Rome" in stead of "Russel" directed to
do "Onondaga" Jasper Hopper, Esq.
do "Batavia" Josh. Elliot, Esq.
do "Cauandaigua" Moses Atwater, Esq.
do "Watertown" Josh. Clark, Esq.

strength of the several Frontier Posts. I hope for such Instructions this evening & have anticipated them so far as to direct Col. Swift, at Niagara, Col. Fleming, at Oswego, & Lt. Col. Beltinger, at Sackets harbour, to be reinforced with Detachments sufficient even for offensive operations & have ordered Major General Mooers & Brigadier General Petit into service in the Champlain District, and placed at their disposal the detached Militia of the two Brigades in Washington County & of the Counties of Essex, Clinton & Franklin. A supply of arms & ammunition is already within their reach, & additional quantities are leaving this place to day which will provide them amply in that respect. The want of tents and blankets distresses me most. We relied upon the United States for those articles & although I believe they have a sufficient number of them, they are unfortunately not within my reach or subject to my controul. You must be convinced that under such circumstances my continuance here for a short time is indispensable. Indeed I do not know that my presence in New York would be of the smallest importance, your being there essentially dispenses with the necessity of my attendance. Besides, there are officers & Engineers of the regular army, officers of the Navy, General Officers of the Militia, the Corporation, the Commissioners of Fortifications, Commisary &c. & I believe an adequate supply of Military Stores.

By a circular addressed to the Division & Brigade officers of the Southern District they are directed to furnish troops upon every requisition for the defence of New York & the Commissary is required to equip from the Arsenal, such of the Militia as may be called into Field service and may be destitute of equipments. Your order or that of Major Genl. will be his

authority upon that subject. He is likewise directed to provide tents, camp kettles, knapsacks &c. without a moments delay. The Commissioners of Fortifications are also hereby vested with a liberal & full discretion in relation to the object of their appointment & that their operations may not be cramped by the want of funds, I enclose a draft for twenty five thousand dollars. I also enclose a copy of the Frontier Act & substitute the Commissioners to represent & act for me in all things touching the possession &c of the ground at the Narrows.

I possess the fullest confidence that the Public officers, the troops, and the Citizens of New York and its vicinity, will meet the critical state in which the important event of the 18th has placed them with that vigilance, intrepidity and devotedness, to the common cause which distinguished the Patriots of the Revolution.

The Honbl. DeWitt Clinton.

THE GOVERNOR FINDS TIME TO RECOMMEND TWO APPLICANTS FOR
ARMY COMMISSIONS.

Albany, June 25, 1812.

Dear Sir: The enclosed recommendations are forwarded to you at the request of the persons John T Wendell & Ephraim Mandell mentioned therein. You are well acquainted with the persons who recommend them. I am but slightly acquainted with either of the candidates but am desired by Mr. Mandell to inform you that he has heretofore been Adjutant of the Kinderhook Regiment and that he solicits the office of Captain.

The Honbl. Harmanus Bleecker.

TRANSPORTATION TO SALEM AND SANDY HILL INTRUSTED TO CAPTAIN
THOMAS CAMPBELL.

Albany, June 26, 1812.

Sir: I recommend Captain Thomas Campbell, of this City, to take charge of the transportation to Salem & Sandy Hill of one hundred and forty tents, one hundred camp kettles and five hundred knapsacks. The former is the place of rendezvous for the battalion detached from De Ridder's Brigade and the latter for the battalion from Petit's Brigade. The two Battalions will proceed to Plattsburgh on different routes. The one from Petit's Brigade will pass through Essex County where the Detachment from the Essex Brigade will join them. The other Battalion will go through Vermont to Burlington or through Lake Champlain. As Mr. Campbell will have orders to execute for me at Salem & Sandy Hill, his agency will be paid by me, & the U. S. will pay merely for the transportation of the Articles. He is a man of activity, intelligence & capacity for business, who will perform the trust to your entire satisfaction.

Permit me here to say that if you are disposed to send and deposit in the Arsenal at Plattsburgh or in Essex County, Muskets, fixed ammunition, Cannon & ball or other Military stores of the United States, they shall be carefully stored therein, and be well attended to & shall be subject to be delivered therefrom on your orders free of expence.

I will thank you to inform me by what time you will have an agent ready to attend to the transportation of the baggage, &c. of the above mentioned Detachments from the respective places of Rendezvous above mentioned.

Genl. Lewis.

THE GOVERNOR INFORMS THE QUARTERMASTER-GENERAL THAT THE
TROOPS NEED TENTS AND TENT EQUIPAGE.

Albany, June 26, 1812.

Sir: I am requested to cause 500 men to be stationed on or near the line at Champlain, and am informed that you will furnish the necessary Camp equipage. Permit me to ask whether you will also feel yourself authorised to furnish Camp equipage for the troops in the service of the United States at Niagara, Oswego, and Sackets harbour? Without a supply of Camp equipage they will be unable to pursue any offensive operations or even to move at any great distance from their Barracks. I have directed Genl. Wadworth to reinforce Col. Swift at Niagara & other Genls. to reinforce the other Detachments with a sufficient force to act offensively and I presume they will do so whenever a supply of Camp equipage shall be furnished. Should you not feel yourself authorised to forward the requisite supply in that direction, allow me in behalf of the U. S. to inquire whether, if I shall become responsible on behalf of the State, either return them in good order when required, or to pay for them what they cost the U. S. or to return new ones in their stead, you will be willing to permit me to take & forward a sufficient number of the tents &c. belonging to the United States to accommodate the Detachments last mentioned.

A large number of waggons are to leave this today for Lake Champlain & Geneva with State Stores & I could wish tents, knapsacks & camp kettles might go with them.

The Honbl. Morgan Lewis.

CANNON BALL ORDERED FROM WHITEHALL TO PLATTSBURGH BY
WATER.

Albany, June 26, 1812.

Sir: Please to deliver to Major John Mills or his order the Cannon ball belonging to the State of New York and stored in your care at Whitehall & be pleased also to aid him in procuring a conveyance for them by water to Plattsburgh.

Mr. Proudfit or whom it may concern.

J. VANDER BOGERT PERMITTED TO SEND A SUBSTITUTE.

Albany, June 27, 1812.

Sir: J. VanderBogert is I understand a contractor with the Government for building boats for its use, and that the public interests would suffer were he to be taken from home at present; you are, therefore, at liberty to receive a substitute in his place in the detachment of 10,500 men or to excuse him from turning out with the Company when it may be called into service, unless his contract with the Government shall have been completed.

To the Captain of the Company of detached Militia in the City of Schenectady.

GENERAL MORTON INFORMED THAT THE FORTIFICATION COMMISSION
IS INVESTED WITH FULL POWER.

Albany, June 27, 1812.

Dear Sir: I have this moment received your letter dated the 25 Instant and have just time to reply that I have transmitted under cover to Mr. Clinton, Twenty five thousand dollars in anticipation of such measures as you suggest, being necessary

to be taken; and I hereby vest the Commissioners with all the power and discretion in the application and expenditure of it which by law is vested in me.

Genl. Morton.

THE GOVERNOR BELIEVES HE SHOULD REMAIN IN ALBANY UNTIL THE
ARRIVAL OF A UNITED STATES OFFICER.

Albany, June 28, 1812.

Dear Sir: I will thank you to cause the enclosed letters & orders with such alterations as you may think proper to be copied and transmitted immediately. The business of your department will undoubtedly be burdensome and arduous whilst the troops & preparations of the General Government are inefficient. I have taken the best precautions in my power for the Western & Northern Frontiers & have ordered out additional portions of the Militia in each direction. I am desirous of coming to New York but the necessity of remaining here until General Dearborn or some U. States officer shall arrive who can make me acquainted with the assistance which I am to expect from the General Government or who can yield me some assistance is so self evident that I should consider my departure now from this place a dereliction of duty. I am besides under the necessity of providing and forwarding the requisite supply of arms, ammunition & Camp equipage towards the Frontiers. The Frontier Inhabitants rely upon the State for the needful supply of such articles. Besides I do not know that I could be of any service in New York, there being abundance of General officers and Engineers on the spot and supplies belonging to the U. States and State adequate I hope to every emergency which may happen.

I shall be under the necessity of inviting you to Albany as soon as I shall find my continuance here to be indispensable. Should I be able to go to New York you will not be required to come to this place.

I have written the orders and letters enclosed under a great pressure of care & business & therefore request that you will not consider the authority to alter and correct them as a merely formal one. Besides those for the Major Generals you will make one sett of copies for General Bloomfield which you will enclose in the letter directed to him & then seal & deliver it. If you knew how I have to work myself you would think lightly of the extraordinary trouble when I hereby impose upon you.

I was uncertain whether the directions for the Major Generals should be in the shape of letters or Genl. orders. I made them letters at first and then changed them to General Orders. Hence their mongrel appearance. You must make them General Orders or letters at your discretion and controul the phraseology & substance accordingly. You must not consider this a merely formal discretion, but one which I design you to exercise with the utmost liberality.

Adjutant Genl. Paulding.

SUSPICIOUS CONDUCT OF VOSBURGH, THE EXPRESS CARRIER.

Albany, June 29, 1812.

Sir: I have just received an express from Canandaigua, informing me that Vosburgh from this City, was arrested on his return from Queenstown in Canada where he had been as express with Foster's dispatches. Those dispatches were dated

June 17 at Washington & arrived in this City on Sunday morning 21 June, from whence they were forwarded by Vosburgh as Express; McTavish of the house of Caldwell, Fraser & Co. of this City—a Mr. Hart, & a certain Solomons were the persons concerned in this City. The Recorder has summoned them before him & I am just informed that Mr. McTavish, upon his examination declares that he received the letters from Samuel Corp of your City and supposed them to be mercantile only. But Vosburgh declares in his affidavit, taken at Canandaigua, that the envelope sent from this City contained information of a declaration of War, and that Mr. Clark of Lewistown, to whom he delivered it so declared before he had opened the enclosed letter of Foster. I give you this information with respect to Mr. Corp, that you as Mayor of the City of N. Y., may make enquiry into his conduct, and participation in aiding and abetting, when he knew war was declared, the minister of the enemy in forwarding information thereof to the British Garrisons to enable them to attack our troops unprepared and unadvised of the event, if you should think such enquiry proper and likely to be beneficial.

The Honbl. DeWitt Clinton.

ROBERT COCKS A CANDIDATE FOR MILITARY HONORS.

Albany, June 29, 1812.

Dear Sir: As you are well acquainted with our mutual friend, Mr. Robert Cocks, I transmit his recommendation of Mr. Telfair to you with request that you will present Mr. Telfair as a Candidate at the War office with such favourable representations as the letter of Mr. Cocks will justify. The utmost confidence may be placed in his assurances.

The recommendation of Dr. Everitt also enclosed is subscribed by the most respectable characters of the Town of Schodack, Rensselaer County. Will you be so kind as to have his name also entered upon the list of Candidates at the War Department.

The Honbl. Samuel L. Mitchill.

COLONEL CLARK SUPPLIED WITH THE GOVERNOR'S ORDERS AND CORRESPONDENCE RELATING TO THE CHAMPLAIN FRONTIER.

Albany, June 30, 1812.

Dear Sir: The enclosed will make you acquainted with all my orders, correspondence & proceedings relative to the protection of the Lake Champlain Frontier. I have directed the Militia officers of this State to keep up a communication with the Vermont shore for the purpose of mutual assistance and safety; and I have likewise calculated upon your willingness to aid in the conveyance to Plattsburgh of the Troops and Military Stores belonging to this State, which may go by Burlington & have, therefore, taken the liberty of referring the agents to you for that purpose. Any arrangements which Genl. Mooers of Plattsburgh shall make with you, will be approved by me and at the same time, I must assure you that everything in my power shall be performed to render the Canadian Frontier on each side of the Lake secure from the Incursions of the enemy; and for that purpose I invite you to a prompt & free communication of every information and matter which may in your opinion render my exertions serviceable.

Col. Isaac Clark.

FORTIFICATIONS ON DENISES POINT AT THE NARROWS.

Albany, June 30, 1812.

Dear Sir: I have received your communication covering resolutions of the Corporation upon the subject of defence of New York. The request that I would cause temporary works to be thrown upon Denise's Heights* has, I presume, been complied with by the ample discretion which was vested in the Commissioners by my last letter. Should there be any further instructions or power that I can give, which will be useful I will thank you to notify me.

The Honbl. DeWitt Clinton.

THE GOVERNOR NOTIFIES GOVERNOR GALUSHA IN DETAIL OF WHAT HE HAS DONE.

Albany, June 30, 1812.

Sir: I have just received your letter dated this morning together with a dispatch from Col. Clark. It will perhaps be most satisfactory to answer it by furnishing you with copies of the communications which I have received & of the letters and orders which I have predicated upon those Communications.

No. 1. Is a copy of the first official information given to me of the declaration of war. I received it on Tuesday night at eleven o'clock & before three in the morning had expresses in motion towards Niagara—Oswego, Sackets Harbour & Plattsburgh. By the latter, without waiting for any orders from the General Government, Major Genl. Mooers of Plattsburgh & Brigadier Genl. Petit of Washington County were empowered

*On the Long Island Shore north of the present Fort Hamilton. See Map, Volume I, Tompkins Papers, opposite page 55.

to call out the detached Militia from Washington, Essex, Clinton, & Franklin Counties. Copies of my letters to them are enclosed & marked No. 2 & 3.

I had, therefore, caused to be stored in deposits at Plattsburgh Clinton County & Elisabethtown Essex County the following quantities of Arms & Military Stores vizt.—

630 Muskets; 480 Cartridge boxes; 11,000 Musket Cartridges 16 to the pound; 1000 Flints; 2 Brass three pounders, with rammers ladles, sponges & Wadhooks; 200 Cannon balls for four pounder; 200 Cannon balls for three pounder; 8 Quarter Casks of powder.

On the 26th Instant I sent off to Plattsburgh by the way of White Hall an additional supply of articles belonging to the State comprehending the following articles:

1000 Muskets; 480 Cartridge boxes; 16,000 rounds of fixed ammunition 18 to a lb; 9000 rounds of fixed ammunition 16 to a lb; 10,800 Musket balls; 40 Casks of powder; 3000 Flints; 350 krapsacks; 100 Camp kettles; 1 Coil of slowmatch; 9 Reams of Cartridge paper.

With these a quantity of Cannon ball lying at White Hall and 4 Field pieces from Col. Thorne's Regiment of Artillery were to proceed from White Hall (see No. 4). The articles went under charge of Major John Mills a copy of whose instructions are enclosed & marked No. 5.

On the day of Major Mills' departure I received from Major Genl. Dearborn the Communication marked No. 6 &, thereupon, issued orders for detaching one Company of Artillery (No. 7)—one company of cavalry (No. 8) & the Detachments from Washington, Essex, Clinton & Franklin (No. 9-10-11-12 & 13). My answer to Genl. Dearborn is marked No. 14.

On the 29th Instant Captain Campbell left this with 140 tents—60 Camp Kettles & 40 pails, & with an advance of 2000 Dollars to accomodate & defray the expences moving on the detachments from Washington and Essex Counties to Plattsburgh with authority to draw on me for further sums. The precise number of men which those detachments, and Militia of Franklin & Essex Counties and the regular troops at Plattsburgh will make, I cannot tell, but, I feel a hope that they will be adequate to present emergencies & that the arms & ammunition with which they are supplied by the State of New York are ample to equip and qualify them for defensive operations at least.

The whole of the above mentioned supply is furnished by the State of New York, except the tents & those I took without any order for the purpose and upon becoming personally responsible, therefor, to the keeper of the Military stores of the United States at this place.

You will see by my letter to General Mooers, that I have directed him to cause a regular communication to be kept up with the troops on the Vermont side of the Lake so that mutual assistance may be given. I had also mentioned as you will see to refer the Agents who accompany the detachments to Col. Clark for any assistance in his power which I did not doubt he would render.

After perusing the enclosed, I will thank you to send them on to Col. Clark, that he may be fully advised of the measures which have been pursued by me for the protection of the Frontier on the New York side of Lake Champlain. Permit me at the same time to tender you an assurance of my readiness to unite with you in the adoption of any further measures which

the security of the Inhabitants on the Canada Frontier may require.

His Excellency Gov. [Jonas] Galusha, [of Vermont].

THE CASE OF VOSBURGH.

Albany, July 1, 1812.

D'r Sir: The persons implicated in sending Vosburgh to Canada with Despatches for the enemy have been examined. The uncertainty arising from that examination whether the Mission was a public one or merely Mercantile, only induces me to recommend his discharge upon entering into a recognisance to appear at the next Court of Sessions or oyer and terminer in Albany to answer for a misdemeanor. A State officer cannot take bail for Treason.

Major J. R. Mullany.

JAMES WATSON OFFERED THE POSITION OF ASSISTANT COMMISSARY,
FLEMING DECLINING.

Albany, July 2, 1812.

Dear Sir: I will thank you to come down to Albany immediately & to receive instructions as assistant Commissary of Military Stores. Lt. Col. Fleming who was appointed has declined accepting & prefers being where he is. If you choose the office I shall assign you to act in it.

Mr. James Watson.

